

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

STALIN RODRIGO REYES ESPINOZA,  
Plaintiff,

-against-  
DAVS PARTNERS LLC AND KALNITECH  
CONSTRUCTION COMPANY,

Defendants.

Veritext Virtual

November 17, 2021  
12:11 p.m.

EXAMINATION BEFORE TRIAL of STALIN  
RODRIGO REYES ESPINOZA, the Plaintiff in  
the above-entitled action, held at the  
above time and place, taken before Carol  
Ellinghaus, a Notary Public of the State  
of New York, pursuant to an Order and  
stipulations between Counsel.

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APPEARANCES:

GORAYEB & ASSOCIATES, PC  
Attorneys for Plaintiff  
100 William Street, Ste. 1900  
New York, New York 10039

BY: JARED TURCO, ESQ.

RICHMAN & LEVINE, PC  
Attorneys for Defendant  
Davs Partners, LLC  
666 Old Country Road  
Garden City, New York 11530

BY: KETH RICHMAN, ESQ.

LAW OFFICE OF MICHAEL SWIMMER  
Attorneys for Defendant  
Kalnitech Construction Company  
605 3rd Avenue, 9th Floor  
New York, New York 10158

BY: ROBERT BRIGANTIC, ESQ.

ALSO PRESENT: Daniel Rodriguez,  
Spanish Interpreter  
Nora Youmans,  
Spanish Interpreter

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STIPULATIONS

IT IS HEREBY STIPULATED, by and among the attorneys for the respective parties hereto, that:

All rights provided by the C.P.L.R., and Part 221 of the Uniform Rules for the Conduct of Depositions, including the right to object to any question, except as to form, or to move to strike any testimony at this examination is reserved; and in addition, the failure to object to any question or to move to strike any testimony at this examination shall not be a bar or waiver to make such motion at, and is reserved to, the trial of this action.

This deposition may be sworn to by the witness being examined before a Notary Public other than the Notary Public before whom this examination was begun, but the failure to do so or to return the original of this deposition to counsel, shall not be deemed a waiver of the rights provided by Rule 3116, C.P.L.R., and shall be

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2 controlled thereby.

3 The filing of the original of this  
4 deposition is waived.

5 IT IS FURTHER STIPULATED, a copy of  
6 this examination shall be furnished to the  
7 attorney for the witness being examined  
8 without charge.

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1  
2 MR. RICHMAN: It is my  
3 understanding that our conversation  
4 with counsel for Kalnitech and counsel  
5 for the plaintiff, have stipulated  
6 that the plaintiff is being produced  
7 here today for a deposition on the  
8 issue of liability only.

9 After that counsel will confer  
10 with each other to establishing a  
11 continuation of the plaintiff's  
12 deposition for damages and I, on  
13 behalf of A.S.K. Electric, will  
14 produce documents that were subpoenaed  
15 by Kalnitech's counsel and that  
16 plaintiff's counsel will consider  
17 whether or not based upon that  
18 production, to bring in as a party  
19 defendant A.S.K. Electric and that  
20 will give the ability of A.S.K.  
21 Electric to bring in as third-party  
22 Jim, which apparently was a  
23 subcontractor subcontractor of A.S.K.  
24 Electric so that everything can be in  
25 this case and properly the subject of

1  
2 the litigation and the issues so that  
3 everything can be considered and  
4 resolved.

5 MR. TURCO: We agree to produce  
6 our client for a subsequent  
7 supplemental deposition with regard to  
8 the damages only, and we will also  
9 work with counsel and Court for a  
10 mutually convenient date for our  
11 client's damages deposition.

12 I would also like to state that  
13 my client's deposition was adjourned  
14 over three times at the request of  
15 defendants. We have complied with  
16 providing all medical authorizations  
17 with regards to all treatment  
18 regarding this accident. We have  
19 complied with all Court Orders to-date  
20 and as of the date of this deposition,  
21 we have not received one piece of  
22 discovery from either attorney from  
23 Davs Partners or attorney for  
24 Kalnitech, despite several Court  
25 Orders, the last one being September

1  
2 10, 2021, which also directed  
3 defendants to respond to our Combined  
4 Demands on or before October 28, 2021,  
5 and we still have not received same.

6 However, there were several  
7 Court Orders that were not complied  
8 with. Nonetheless, we are here with  
9 our client and ready to proceed.

10 MR. BRIGANTIC: If I may, I am  
11 agreeing to go forward with this  
12 deposition only because our call to  
13 the court for judicial intervention  
14 has not resulted in Judge Landicino  
15 being able to hear from us.

16 It is my understanding as of the  
17 time this deposition is being started,  
18 Judge Landicino's law clerk is  
19 attempting to get Judge Landicino and  
20 explain to him what the issue is and  
21 perhaps have judicial intervention. I  
22 am going forward today, only over  
23 objection.

24 I also object to the fact that  
25 prior to today and not until yesterday

1  
2 that the plaintiff produced over one  
3 hundred pages of documents yesterday  
4 afternoon at 3:30 in the afternoon  
5 when I wasn't in the office, which I  
6 have not been able to review.

7 Therefore, when the plaintiff  
8 says they are in the compliance with  
9 the Order, it's only because the  
10 documents were produced yesterday  
11 afternoon at 3:30.

12 There is no procedure in the  
13 Compliance Conference Order or the  
14 CPLR that permits a plaintiff to  
15 demand their deposition partially on  
16 several issues only. I have asked for  
17 where did the authority for doing this  
18 exist and I have received no response  
19 from plaintiff's office.

20 The attempt to limit this  
21 deposition and bifurcate it is nowhere  
22 permitted in the orders or the CPLR as  
23 I see it. But we will go forward  
24 simply because the witness is here and  
25 it is with our objection.



1  
2 I would like to point out with  
3 respect to the documents that we need  
4 in order to adequately depose this  
5 witness, Davs Partners, who is the  
6 owner of this project and property in  
7 a labor law case, has produced nothing  
8 and they indicate to me that they have  
9 no documents because the real party  
10 and interest who is not a party to the  
11 litigation is A.S.K. Electric, who  
12 subcontracted with both my client,  
13 Kalnitech, and also subcontracted with  
14 the Plaintiff's employer, Jim  
15 Associates.

16 Prior to this deposition, I  
17 subpoenaed documents from A.S.K.  
18 Electric and I was told before the  
19 return date of that deposition by  
20 Mr. Richman, that he represents A.S.K.  
21 Electric and the documents will be  
22 provided by the return date. The  
23 return date went, it passed. A.S.K.  
24 Electric has not produced the  
25 documents. When I asked yesterday

1  
2 what the status of that production  
3 was, I was told that the client still  
4 hadn't supplied the documents to  
5 Mr. Richmond's office even for review.

6 Why I am being compelled to go  
7 forward with the deposition of the  
8 plaintiff when the real party and  
9 interest, the GC who also has some  
10 co-existing relationship with the  
11 owner of this project resulting in the  
12 production of no documents at all, is  
13 not appropriate or proper.

14 As far as production of  
15 documents, I subpoenaed documents from  
16 the plaintiff's employer and I did  
17 provide those documents to the  
18 plaintiff's office.

19 If we are in default of any  
20 discovery obligations, I will correct  
21 those. The fact that written  
22 discovery has not been completed, has  
23 been on all sides and even the  
24 plaintiff just produced a ton of  
25 documents yesterday late afternoon.

1  
2 That is why I am doing this but  
3 I am doing it over objection,  
4 reserving the right to seek any relief  
5 that may be appropriate.

6 MR. TURCO: Let the record  
7 reflect, that Mr. Brigantic's  
8 soliloquy is ripe with inadequacies --

9 MR. BRIGANTIC: I did not insult  
10 you or call you names or anything  
11 else. It is inappropriate, Counsel.

12 MR. TURCO: You are also yelling  
13 now.

14 MR. BRIGANTIC: I am not  
15 yelling.

16 MR. TURCO: You are also making  
17 misrepresentations. For the record,  
18 we have not received your response to  
19 the Preliminary Conference Order, we  
20 have not received your response from  
21 your office to the Compliance  
22 Conference Order, and we have not  
23 received a response from your office  
24 to the final preconference and we did  
25 provide authorizations for medical and

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treatment to your office in 2019.

So we are actually in full compliance with all discovery, so that portion of your record is inaccurate.

We, as a courtesy, forwarded you copies of medical records that you have not received directly from the providers yet yesterday. We did not release documents that we were Court Ordered to exchange. We, as a courtesy, provided your office with medical records further as a courtesy.

In addition to the three or four adjournments of my client's deposition, we advised you that since you did not have all the medical records directly from the providers, as a courtesy we would produce our client more than once and we would produce him solely for the issue of liability, which is what I put on the record today.

So despite your representations, that is inaccurate. It was Court

1  
2 Ordered depositions for my client. If  
3 you would like to proceed with the  
4 entirety of my client's deposition  
5 today, I'll not produce him on a  
6 separate date. If you do not want the  
7 courtesy of two separate depositions,  
8 then we will continue to the end of  
9 the day, you will get your time, and  
10 that is that.

11 MR. BRIGANTIC: You already  
12 stipulated it was a liability  
13 deposition only. You already agreed  
14 to bring him back on damages. I am  
15 only stating that the liability  
16 portion is going forward over my  
17 objection for the reasons stated.

18 MR. RICHMAN: Let's move  
19 forward.

20 THE COURT REPORTER: Would you  
21 like a copy of the transcript,  
22 Counselor?

23 MR. BRIGANTIC: Absolutely.  
24  
25

1 S. Espinoza

2 D A N I E L R O D R I G U E Z,

3 The interpreter, having first been duly  
4 sworn by the Notary Public, interpreted  
5 from English to Spanish and from Spanish  
6 to English to the best of his ability, as  
7 follows:

8 S T A L I N R O D R I G O R E Y E S  
9 E S P I N O Z A,

10 the Witness herein, having first been  
11 duly sworn by the Notary Public, was  
12 examined and testified as follows:

13 EXAMINATION BY

14 MR. RICHMAN:

15 Q. What is your name?

16 A. Stalin Rodrigo Reyes Espinoza.

17 Q. Where do you reside?

18 A. 151 Avenue O, Apartment B3,  
19 Brooklyn, New York 11204.

20 MR. BRIGANTIC: When the  
21 plaintiff is brought back, will he be  
22 brought back before or after the  
23 defendants are deposed?

24 MR. TURCO: Before. Assuming  
25 Keith doesn't want to produce out of

1 S. Espinoza

2 order.

3 MR. RICHMAN: Right.

4 Good afternoon. My name is  
5 Keith Richman. I am an attorney and  
6 my client is Davs Partners, LLC.

7 Davs Partners, LLC is a  
8 defendant in this lawsuit and you are  
9 the plaintiff; is that correct?

10 THE WITNESS: [Not responding.]

11 MR. RICHMAN: Repeat the  
12 question, Danny.

13 MR. TURCO: Please read it back.

14 [The requested portion of the  
15 record was read.]

16 THE WITNESS: Yes.

17 MR. RICHMAN: Sir, first of all,  
18 I want to make sure that you  
19 understand the interpreter and the  
20 translation. If you have trouble  
21 understanding the translation today,  
22 please let me know.

23 Okay?

24 THE WITNESS: Yes, I understand.

25 MR. RICHMAN: I am going to be

1 S. Espinoza

2 asking questions in English. The  
3 interpreter will interpret that into  
4 Spanish and you are going to give all  
5 your answers in Spanish.

6 Is that acceptable to you?

7 THE WITNESS: I agree.

8 MR. RICHMAN: Please wait until  
9 the interpreter asks the question to  
10 you and please answer all of your  
11 questions verbally. The interpreter  
12 and the court reporter cannot take  
13 down any hand gestures or nods of the  
14 head.

15 Do you understand that?

16 THE WITNESS: I understand.

17 MR. RICHMAN: When a question is  
18 asked of you, please do not guess or  
19 give any approximations to the answers  
20 to the questions and please if you do  
21 not know the answer, please respond by  
22 saying you don't know or you don't  
23 understand the question.

24 THE WITNESS: I understand.

25 Q. What is your full name?



1 S. Espinoza

2 A. Stalin Rodrigo Reyes Espinoza.

3 Q. Have you ever been known by any  
4 other names?

5 A. No.

6 Q. What is your current address?

7 A. 151 Avenue O, Apartment B3,  
8 Brooklyn, New York.

9 Q. How long have you lived there?

10 A. Approximately around two to  
11 three years.

12 Q. Is that an apartment building or  
13 is that an apartment as part of a house?

14 A. An apartment of a building.

15 Q. Who do you live there with?

16 A. With my brothers.

17 THE INTERPRETER: I have to ask  
18 him to clarify if it's singular or  
19 plural.

20 A. With a brother and the others  
21 ones, I just know them.

22 Q. What is your brother's name?

23 A. Manuel Euclides Espinoza.

24 Q. How long have you been living  
25 with your brother?

1 S. Espinoza

2 A. Since I arrived.

3 Q. The day you arrived from where?

4 A. From Ecuador.

5 Q. Before you were living in this  
6 apartment --

7 [Telephone interruption.]

8 MR. BRIGANTIC: I need to take  
9 that. It's the call from the Court.

10 [A pause in the proceedings.]

11 MR. BRIGANTIC: I just got a  
12 call back from the law clerk Steven  
13 Burseio [phonetically]. He wants us  
14 to set up a conference call with him.

15 MR. RICHMAN: Please read back  
16 the last question and answer.

17 [The requested portion of the  
18 record was read.]

19 Q. Sir, before you came to the  
20 United States, you were living in Ecuador;  
21 correct?

22 A. Yes.

23 Q. What is the date that you moved  
24 to the United States?

25 A. I came the 30th of July in 2018.

1 S. Espinoza

2 Q. When you came to the United  
3 States, did you come as a visitor or did  
4 you obtain a work visa?

5 A. No.

6 Q. You are not understanding the  
7 question.

8 When you first came to the  
9 United States, did you come as a visitor  
10 or something else?

11 A. No.

12 MR. BRIGANTIC: It's not  
13 responsive.

14 MR. TURCO: Do you understand  
15 the question?

16 When you first came to the  
17 United States, did you come as a  
18 visitor?

19 THE WITNESS: No.

20 MR. TURCO: Did you come here to  
21 work?

22 THE WITNESS: Can you please  
23 repeat.

24 Q. When you first came to the  
25 United States, did you come here to be

1 S. Espinoza

2 employed?

3 A. I came to work.

4 Q. When you came to the United  
5 States on July 30 of 2018, who did you  
6 come here with, if anyone?

7 A. I came alone.

8 Q. After you came to the United  
9 States, did there come a time after you  
10 arrived in the United States, that your  
11 brother came to the United States?

12 A. Yes.

13 Q. When did your brother arrive,  
14 the brother you are now living in your  
15 apartment with?

16 A. I arrived to where my brother  
17 lives with him.

18 MR. TURCO: The question was did  
19 your brother come after you?

20 When did your brother come?

21 THE WITNESS: He came some  
22 further time ago.

23 Q. When you first came to the  
24 United States, where did you live?

25 A. Approximately around Avenue U

1 S. Espinoza

2 but I don't remember exactly.

3 Q. Who did you live with when you  
4 first came to the United States?

5 A. Can you please repeat because I  
6 did not understand.

7 MR. RICHMAN: Please read it  
8 back.

9 [The requested portion of the  
10 record was read.]

11 A. I found or I got together with  
12 my brother and I stayed to live with him.

13 Q. I thought your brother came to  
14 the United States after you arrived in the  
15 United States; is that correct?

16 A. No. He was already living here.

17 Q. When you first came to the  
18 United States, you moved in with your  
19 brother; correct?

20 A. Yes.

21 Q. When you first came to the  
22 United States, was your brother employed?

23 A. Yes.

24 Q. What did he do?

25 A. Construction.

1 S. Espinoza

2 Q. Who did he work for?

3 A. I have no idea.

4 Q. When you first arrived here, did  
5 you seek employment or did you have  
6 employment arranged before you the came to  
7 the United States?

8 A. When I arrived I looked for  
9 work.

10 Q. How did you look for work?

11 A. It was through people that I  
12 know.

13 Q. What kind of work did you look  
14 for?

15 A. Construction.

16 Q. When is the first time that you  
17 became employed in the United States after  
18 you arrived?

19 A. Close to the 4th of October when  
20 I came.

21 Q. That is October 4, 2018?

22 A. Yes.

23 Q. What was your first employment?

24 A. Construction.

25 Q. Who were you employed by?

1 S. Espinoza

2 A. Can you please repeat.

3 Q. Who were you employed by?

4 A. I don't know the exact name.

5 Q. Was it a company or an

6 individual or something else?

7 A. I don't know exactly what kind  
8 of company it was or nothing.

9 Q. Do you know where the company  
10 was located?

11 A. I was just taken there to go  
12 work. I don't know nothing else.

13 Q. Were you paid money for your  
14 employment?

15 A. I did not understand.

16 Q. Did you get paid a salary for  
17 working at your first employment?

18 A. Yes.

19 Q. How much?

20 A. Around six hundred.

21 Q. That is \$600 per week?

22 A. Yes.

23 Q. How many hours did you work?

24 A. I don't know exactly.

25 Q. Was it more than forty hours a

1 S. Espinoza

2 week, if you know?

3 THE INTERPRETER: I am asking  
4 him to repeat and speak louder.

5 A. Eight hours daily.

6 Q. How many days a week?

7 A. Five.

8 Q. What kind of construction work  
9 did you do?

10 A. Laborer.

11 Q. Can you describe exactly the  
12 kind of work you did as a laborer?

13 A. I used to do everything.

14 Q. Can you itemize for me what you  
15 mean by you did everything?

16 A. I would sweep, I would take down  
17 the sheetrock from the truck, I would be  
18 helping the foreman, and go pick up the  
19 food.

20 Q. Anything else?

21 A. Sometimes I would place  
22 sheetrocks [sic].

23 Q. How long did you --

24 MR. RICHMAN: Withdrawn.

25 Q. Do you know the names of any of



1 S. Espinoza

2 the people that you work with at this  
3 company or person as a laborer?

4 A. No, because I did not know all  
5 of them.

6 Q. Do you have any records that you  
7 could produce indicating the names of any  
8 of the individuals or companies that you  
9 worked for at this time?

10 A. No.

11 Q. Did you get paid by cash or  
12 check?

13 A. Check.

14 Q. Do you have copies of any of  
15 your paychecks?

16 A. No.

17 MR. BRIGANTIC: Can I ask is  
18 there a lost wage claim.

19 MR. TURCO: Yes, there is.

20 MR. RICHMAN: Yes, there is.

21 MR. BRIGANTIC: Thank you,  
22 sorry.

23 MR. TURCO: Did you need copies  
24 of his paychecks from 2018?

25 MR. RICHMAN: No.

1 S. Espinoza

2 Q. For how long a period of time,  
3 did you work for this person or company,  
4 from October 4, 2018 until when?

5 A. I don't remember exactly.

6 Q. Approximately how long?

7 A. I can't recall.

8 Q. Was it more than a month?

9 A. Yes.

10 Q. Was it more than two months?

11 A. Yes.

12 Q. More than three months?

13 A. Yes.

14 Q. More than six months?

15 A. Somewhere around there.

16 Q. When you left that company, what  
17 was the reason why you left that company?

18 A. Verbal abuse.

19 Q. Verbal abuse by who?

20 A. I don't remember the name of the  
21 foreman.

22 MR. RICHMAN: If I leave a space  
23 in the record, can you provide the  
24 name? If we leave a space in the  
25 transcript, can you provide the name

1 S. Espinoza  
2 of the foreman that you say you  
3 received verbal abuse from?

4 MR. TURCO: He testified he  
5 doesn't remember; right?

6 MR. RICHMAN: I am asking if we  
7 leave a space and if you can provide  
8 the name, provide it.

9 MR. TURCO: You can leave a  
10 space if he remembers, sure.

11 (Insert)

12 -----

13 Q. In connection with your  
14 employment for approximately six months  
15 with this company when you came to the  
16 United States, did you take any safety  
17 courses?

18 THE INTERPRETER: Any what?

19 MR. RICHMAN: Safety courses.

20 A. Not at that time.

21 Q. Were you working under a work  
22 visa?

23 A. No.

24 Q. Did you file tax returns for  
25 2018?

1 S. Espinoza

2 A. Yes.

3 MR. RICHMAN: I am going to ask  
4 for a copy of those tax returns and  
5 I'll send a separate D&I.

6 MR. TURCO: Taken under  
7 advisement.

8 Q. When you were verbally abused by  
9 your supervisor, did you file a complaint  
10 against him or her with anyone?

11 A. No.

12 Q. Before you came to the United  
13 States and you were living in Ecuador, who  
14 were you living with?

15 A. With my wife.

16 Q. Are you married?

17 A. No.

18 Q. Are you divorced?

19 A. Separated.

20 Q. You are legally married but  
21 physically separated?

22 A. I am not exactly married, we  
23 just live together.

24 Q. You said before that you were  
25 married in Ecuador; is that accurate?

1 S. Espinoza

2 A. That is not correct. I am not  
3 married.

4 Q. Do you have any children?

5 A. Yes, I have a daughter.

6 Q. How old is your daughter?

7 A. Three and a half years.

8 Q. Where does your daughter live?

9 A. Ecuador.

10 Q. Does she live with her mother?

11 A. Yes.

12 MR. TURCO: Danny, I need you to  
13 try and translate my objection so the  
14 client hears it.

15 Can you hear me, Danny? When I  
16 object I need you to translate my  
17 objection.

18 Objection to the form of the  
19 question.

20 Q. When you were living in Ecuador,  
21 were you living with your daughter and her  
22 mother?

23 A. Yes.

24 Q. For how long?

25 A. With the mother?

1 S. Espinoza

2 Q. With the mother, yes.

3 A. Three to four years.

4 Q. You were living with your  
5 daughter and daughter's mother since your  
6 daughter was born; is that correct?

7 A. In Ecuador, yes.

8 Q. What was the reason why you left  
9 Ecuador and came to the United States?

10 A. I wanted to get a better future.

11 Q. What is your date of birth?

12 A. For who?

13 Q. What is your date of birth?

14 MR. TURCO: Carol, do not put it  
15 on the record.

16 A. 00/00/0000.

17 Q. Where were you born?

18 A. Ecuador.

19 Q. While you were living with your  
20 daughter for three years, where in Ecuador  
21 were you living?

22 THE INTERPRETER: I have to ask  
23 him to spell it.

24 A. Lenta, the name of the town is  
25 Lenta.

1 S. Espinoza

2 THE INTERPRETER: L-E-N-T-A.

3 Q. During the three years that you  
4 were living with your daughter in Ecuador,  
5 were you employed?

6 A. Yes.

7 Q. What were you doing?

8 A. In a restaurant.

9 Q. What were you doing in a  
10 restaurant?

11 A. I used to grill ribs, I used to  
12 grill ribs on a grill.

13 Q. Did you do that full time or  
14 something else?

15 A. No.

16 Q. You did that part time?

17 A. Yes.

18 Q. Did you have any other jobs  
19 during the last three years while you were  
20 living with your daughter in Ecuador other  
21 than grilling ribs?

22 A. With my daughter I only lived  
23 just for one month.

24 Q. At the time that you left  
25 Ecuador, you had employment grilling ribs;

1 S. Espinoza

2 is that correct?

3 A. Yes.

4 Q. How long was that employment  
5 for?

6 A. Two months.

7 Q. Before that what did you do?

8 A. Construction.

9 Q. How long did you do construction  
10 for in Ecuador?

11 A. I don't know exactly.

12 Q. Approximately how long?

13 A. I don't remember.

14 Q. Did you do construction for more  
15 than a year while living in Ecuador?

16 A. Yes.

17 Q. Are you currently a U.S.  
18 citizen?

19 MR. TURCO: Note my objection.

20 A. Can you repeat.

21 + Q. Are you currently a U.S.  
22 citizen?

23 MR. TURCO: Note my objection.

24 I don't want him to answer that.

25 He has a pending immigration case and



1 S. Espinoza

2 I don't want him to jeopardize that.

3 I am going to direct him not to  
4 answer that.

5 MR. RICHMAN: Mark it for a  
6 ruling.

7 + Q. Are you currently in the United  
8 States pursuant to a visa?

9 MR. TURCO: Note my objection  
10 and don't answer the question  
11 regarding his immigration status. At  
12 this time he has a pending case and I  
13 don't want him to testify to anything  
14 that would jeopardize his case.

15 MR. RICHMAN: You know I am  
16 entitled to know the answer to these  
17 questions.

18 MR. TURCO: You can mark it.

19 MR. RICHMAN: Mark it for a  
20 ruling.

21 Q. Do you currently have a Social  
22 Security number?

23 A. Where? Where? Can you please  
24 repeat the question.

25 Q. Do you currently have a Social

1 S. Espinoza

2 Security number?

3 A. Yes.

4 Q. What is that number?

5 MR. RICHMAN: You can put the  
6 last four digits on.

7 MR. TURCO: Please make sure  
8 it's only the last four.

9 A. I don't have it in hand.

10 MR. RICHMAN: I'll leave a space  
11 in the record.

12 (Insert)

13

14 MR. TURCO: Off the record.

15 [Discussion held off the  
16 record.]

17 Q. What is your highest level of  
18 education?

19 A. I finished third grade or third  
20 course.

21 Q. Is that equivalent to the third  
22 grade in the United States, if you know?

23 A. I have no idea.

24 Q. Do you know what a high school  
25 is?

1 S. Espinoza

2 A. Yes.

3 Q. Did you graduate from high  
4 school?

5 A. I have been approved up to  
6 ninth. I was approved all the way up to  
7 the ninth.

8 MR. RICHMAN: Say it again,  
9 Danny.

10 THE INTERPRETER: I was approved  
11 all the way up to the ninth.

12 Q. You graduated from ninth grade,  
13 is that what you are saying?

14 A. Ninth grade, the following grade  
15 is the first class or first year of high  
16 school.

17 Q. Was the last year that you  
18 finished school in Ecuador ninth grade?

19 A. I finalized the ninth grade.

20 Q. To have graduated from high  
21 school you would have had to finish tenth,  
22 eleventh, and twelfth grade; is that  
23 correct?

24 MR. RICHMAN: I had to tell him  
25 in a different way. He is not

1 S. Espinoza

2 understanding. Over there, I'll make  
3 a clarification for the record, in  
4 different countries like the Dominican  
5 Republic, Ecuador, they use high  
6 school as first, second, third, and  
7 fourth grades for high school.

8 Q. Is high school in Ecuador  
9 attending the first, second, third, and  
10 fourth grade in high school?

11 A. In Ecuador it's first year of  
12 high school, second year of high school,  
13 and third year of high school you are  
14 ending.

15 Q. Did you attend first year of  
16 high school?

17 A. I started but I didn't finish.

18 Q. You did not go to the second  
19 year of high school; correct?

20 A. No.

21 Q. You did not attend the third  
22 year of high school; correct?

23 A. Correct.

24 Q. What was the reason why you  
25 didn't finish the first year of high

1 S. Espinoza

2 school?

3 A. Money problems.

4 Q. The high school in Ecuador

5 required you or your family to pay money  
6 to the high school to attend?

7 A. The economy wasn't enough or the  
8 finances were not enough.

9 Q. Is it correct that you had to  
10 stop attending high school in the first  
11 year because you needed to be employed and  
12 make money?

13 A. Correct.

14 Q. At that time that you were  
15 attending the first year of high school,  
16 who were you living with?

17 A. Can you please repeat because I  
18 got confused.

19 Q. During the first year that you  
20 attended high school, who were you living  
21 with?

22 A. With my mother and my father.

23 Q. How old were you when you  
24 stopped going to the first year of high  
25 school?

1 S. Espinoza

2 A. Eighteen.

3 Q. What was your first employment  
4 in Ecuador after you stopped going to the  
5 high school?

6 A. In mining.

7 Q. Mining?

8 THE INTERPRETER: Mining, yes,  
9 correct.

10 Q. How long were you mining for?

11 A. I used to go and come. I don't  
12 know exactly.

13 Q. Was it more or less than six  
14 months?

15 A. Yes.

16 Q. What did you do in connection  
17 with mining?

18 A. Take out or looking for gold,  
19 mining for gold.

20 MR. RICHMAN: What, Danny?

21 THE INTERPRETER: Mining for  
22 gold.

23 Q. In connection with that job, did  
24 you take any safety courses?

25 A. Yes.

1 S. Espinoza

2 Q. Describe them to me.

3 A. You get a helmet, goggles,  
4 gloves.

5 THE INTERPRETER: He said  
6 something I couldn't hear. I have to  
7 ask him.

8 A. Gloves, helmet, a lantern or  
9 flashlight, masks, protective boots, a  
10 reflective vest.

11 Q. Anything else?

12 MR. TURCO: You are asking for  
13 the gear of mining?

14 MR. RICHMAN: Yes.

15 Q. Were you ever injured on the  
16 job?

17 A. No.

18 Q. What was the reason you left  
19 that employment?

20 A. I had a limited contract.

21 Q. What was your next job?

22 A. I used to work in a  
23 hydroelectric.

24 Q. What did you do there?

25 A. Sweeping.

1 S. Espinoza

2 THE INTERPRETER: He was going  
3 to say something.

4 MR. RICHMAN: Sorry, go ahead.

5 A. Shining floors.

6 Q. Did you wear any safety items?

7 A. All the time.

8 Q. Excuse me?

9 A. All of the time.

10 Q. What did you wear or and/or use?

11 A. Harness, reflective vest,  
12 goggles.

13 Q. Did you wear a helmet?

14 MR. TURCO: I missed a question  
15 before that, what was he describing?

16 MR. RICHMAN: He was describing  
17 his safety apparel or equipment while  
18 he worked at the hydroelectric.

19 Q. Anything else?

20 THE INTERPRETER: I am not  
21 hearing what he is saying.

22 A. I was also directing traffic in  
23 the same hydroelectric or guiding traffic.

24 Q. What kind of harness were you  
25 wearing?



1 S. Espinoza

2 A. 3 M.

3 Q. What was the reason, what was  
4 the purpose of wearing this harness?

5 A. The security guards all of them  
6 were required for us to wear it. They  
7 won't allow us to work if we didn't have  
8 it.

9 Q. Was that a harness that had  
10 reflective material on it?

11 A. Yes.

12 Q. How long did you work in this  
13 company for?

14 A. One year.

15 Q. What was the reason why you left  
16 this company?

17 THE INTERPRETER: I am having  
18 difficulty with his audio.

19 A. Because I did not like the food.

20 Q. What was your next job?

21 A. Tractor helper.

22 Q. Tractor helper, what kind of  
23 tractor?

24 A. Aruga [phonetically].

25 THE INTERPRETER: I don't know

1 S. Espinoza

2 what that means. I have to ask him  
3 the definition of what that means.

4 I am going to ask him if it is a  
5 tractor-trailer or a tractor for the  
6 farming industry.

7 Is that okay with you?

8 MR. RICHARD: Thanks, Danny.

9 A. A tractor to do transportation,  
10 deliveries.

11 MR. TURCO: Everyone, when Danny  
12 has to leave at 2:30, do you want to  
13 do a window there for lunch or food?

14 Off the record.

15 [Discussion held off the  
16 record.]

17 Q. When you were a helper, what  
18 exactly did you do?

19 A. I used to carry the fuel. I  
20 used to grease up the truck.

21 Q. How long did you do this job  
22 for?

23 A. Three months.

24 Q. What was the reason you left  
25 this job?

1 S. Espinoza

2 A. The reason was that I had a  
3 limited contract.

4 Q. What was your next job?

5 A. I used to be a waiter and a  
6 helper at kitchen.

7 Q. In a restaurant?

8 A. A fast-food restaurant.

9 Q. How long did you do that for?

10 A. About a year and a half.

11 Q. What was the reason for leaving  
12 that?

13 A. I did not understand.

14 Q. Why did you leave that job as a  
15 waiter/helper in the fast-food restaurant?

16 A. I got engaged.

17 Q. What was the name of the person  
18 you were engaged to?

19 A. Yes.

20 Q. What is her name?

21 A. Jessica Maribel Pasatos Pizarro.

22 Q. Did you ever marry Jessica?

23 A. No.

24 Q. Is that who you had why you  
25 child with?

1 S. Espinoza

2 A. Yes.

3 Q. What was your next job after  
4 working at the fast-food restaurant?

5 A. Construction again.

6 Q. How long did you have that job?

7 A. Two months.

8 Q. What kind of construction did  
9 you personally do?

10 A. I used to mix the sand, cleaning  
11 the corners.

12 Q. Anything else?

13 A. Pick up material, sand.

14 Q. Did you wear any safety  
15 equipment?

16 A. Yes.

17 Q. Describe it.

18 A. Helmet, gloves.

19 Q. Did you use a ladder in  
20 connection with that job?

21 A. The stairs of the building.

22 Q. Did you ever use a ladder in  
23 connection with performing your  
24 construction duties?

25 MR. TURCO: Ever before this --

1 S. Espinoza

2 MR. RICHMAN: During this job  
3 for two months.

4 THE INTERPRETER: I have an  
5 interpreter that will not be able to  
6 come in until 2:30. She can't come in  
7 at 2:15.

8 MR. RICHMAN: When do you end,  
9 2:30?

10 THE INTERPRETER: I can end at  
11 2:30.

12 MR. RICHMAN: You want her to  
13 come in at 2:45?

14 Off the record.

15 [A discussion was held off the  
16 record.]

17 MR. RICHMAN: Please read back  
18 the answer.

19 [The requested portion of the  
20 record was read.]

21 MR. RICHMAN: I just wanted it  
22 for clarity.

23 Q. Did you ever use a ladder in  
24 connection with your duties?

25 A. I would use the ladder to be

1 S. Espinoza

2 able to go up with the sand and the sand I  
3 would bring it up in a bag.

4 Q. Did you use an A-frame ladder or  
5 straight ladder?

6 A. It was as a staircase, it's a  
7 concrete staircase.

8 Q. Do you know what a ladder is?

9 A. Can you please specify.

10 Q. In connection with this incident  
11 involving this lawsuit, did you fall from  
12 a ladder?

13 A. Could you be more specific  
14 because I did not understand.

15 Q. Were you involved in an incident  
16 on June 28, 2019?

17 A. Yes.

18 Q. Is that the reason why you  
19 commenced this lawsuit?

20 A. Yes.

21 Q. At the time of that incident on  
22 June 28, 2019, were you using a ladder?

23 A. Yes.

24 Q. Was the ladder aluminum?

25 A. It was fiberglass.

1 S. Espinoza

2 Q. Were the outside rails of the  
3 ladder green?

4 MR. TURCO: I object to the  
5 question. Go ahead.

6 A. Yes.

7 Q. Was the ladder involved in the  
8 incident on June 28, 2019 an A-frame  
9 ladder or something else?

10 A. No.

11 Q. It was a straight ladder?

12 A. The ones that you open.

13 Q. It opens on two sides and looks  
14 like an A when it opens; is that correct?

15 A. Yes.

16 MR. TURCO: You can probably ask  
17 him again the A-frame question.

18 MR. RICHMAN: I'll get back to  
19 it.

20 Q. Did you ever use that type of  
21 ladder before the incident on June 28,  
22 2019?

23 A. Yes.

24 Q. Did you use that A-frame type of  
25 ladder in connection with the construction

1 S. Espinoza

2 job that you had for two months in Ecuador  
3 that we were just talking about?

4 A. I didn't have any idea that that  
5 type of ladder existed.

6 Q. The first time that you used the  
7 ladder that was green in parts was on June  
8 28, 2019?

9 MR. TURCO: Note my objection.

10 THE INTERPRETER: Can I  
11 translate? Can he answer?

12 MR. RICHMAN: Yes, go ahead.

13 A. Yes.

14 Q. After this construction job that  
15 you had for two months in Ecuador, what  
16 was the reason why you left that job?

17 A. My wife was having symptoms of  
18 pregnancy and I had to stop working there.

19 Q. What was your next job?

20 A. I did not work for various  
21 months.

22 Q. Did you ever obtain employment  
23 after this construction job that you  
24 worked for two months while you were  
25 living in Ecuador?



1 S. Espinoza

2 A. After that I didn't get -- I  
3 couldn't find more work.

4 Q. The answer to that question is  
5 no?

6 A. No.

7 MR. TURCO: Just answer just  
8 what he is asking. If you can  
9 estimate, great. You can answer yes  
10 or no. Listen to the very specific  
11 question, please.

12 Q. At the time that you left  
13 Ecuador, you were not employed for some  
14 period of time before you left; correct?

15 A. I didn't have more work.

16 Q. How long a period of time would  
17 you approximate you were not working  
18 before you left Ecuador?

19 A. I don't remember exactly.

20 Q. Was it more than six months?

21 A. It's been a long time ago.

22 Q. Can you give me an approximate  
23 period of time?

24 A. No.

25 MR. TURCO: Do you understand

1 S. Espinoza

2 the question?

3 THE WITNESS: No.

4 MR. TURCO: Before you left  
5 Ecuador, when was last time you were  
6 employed?

7 THE WITNESS: About a year.

8 Q. What did you do during that  
9 year?

10 A. Take care of the family.

11 Q. Who were you living with during  
12 that one year?

13 A. With Jessica Maribel Pasatos.

14 Q. Are you currently taking any  
15 medication?

16 A. Yes.

17 Q. Have you taken any medication  
18 within the last twenty-four hours?

19 A. No.

20 Q. When is the last time you took  
21 any medication?

22 A. Yesterday.

23 Q. What did you take yesterday?

24 A. Yesterday I took two pills at  
25 six p.m.

1 S. Espinoza

2 Q. What kind of pills?

3 A. I don't remember the name.

4 Q. Was it prescribed to you by a  
5 doctor?

6 A. Yes.

7 Q. What is the name of the doctor?

8 A. I don't remember.

9 Q. What were the pills for?

10 A. For the pain.

11 Q. Say is again. What?

12 THE INTERPRETER: For the pain.

13 Q. Pain where?

14 A. Lower back to the left.

15 Q. Describe the pain.

16 A. I have pain on my lower back, my  
17 buttocks area, my legs on the sides and  
18 down to my feet.

19 Q. This pain you have just  
20 described, are you claiming that is the  
21 result of your incident on June 28, 2019?

22 A. Yes.

23 Q. Have you ever been convicted of  
24 a crime?

25 A. No.

1 S. Espinoza

2 Q. Have you ever filed for  
3 bankruptcy?

4 A. No.

5 Q. Are you aware of any judgments  
6 or liens against you?

7 A. No.

8 Q. With the exception of this  
9 current lawsuit, have you ever been a  
10 plaintiff or a defendant in a lawsuit?

11 A. No.

12 Q. Have you ever attended any  
13 vocational or trade schools?

14 A. Do you mean OSHA classes?

15 Q. Anything.

16 MR. TURCO: Any additional  
17 training classes, any additional  
18 higher education.

19 A. The classes of OSHA only.

20 Q. When did you attend OSHA  
21 classes?

22 A. What do you mean?

23 Q. You just said you attended OSHA  
24 classes. When did you attend OSHA  
25 classes?

1 S. Espinoza

2 A. Okay, approximately April of  
3 2019, approximately April of 2019.

4 Q. April of 2019?

5 A. Yes.

6 Q. Let's go back. You said earlier  
7 your first employment in the United States  
8 started October 4, 2018 and you worked in  
9 construction as a laborer for  
10 approximately six months.

11 MR. TURCO: Note my objection.

12 You can answer.

13 A. I didn't understand.

14 Q. Do you remember testifying  
15 earlier today that you told me that your  
16 first job in the United States started  
17 October 4, 2018?

18 A. Yes.

19 Q. And that you worked there for  
20 approximately six months and you left  
21 because you claim you were verbally  
22 abused; correct?

23 A. Yes.

24 Q. What was your next job after  
25 that job?

1 S. Espinoza

2 A. Putting metals in the same area  
3 of construction.

4 MR. RICHMAN: Say it again,  
5 Danny.

6 A. Putting metals in the same area  
7 of construction.

8 MR. RICHMAN: Putting metals in  
9 the same area of construction, is that  
10 what he said?

11 THE INTERPRETER: That is what  
12 he said.

13 MR. TURCO: Did you understand  
14 the question?

15 Q. Do you understand my question?  
16 I am asking you what your next job was  
17 after the first job in the U.S.

18 THE INTERPRETER: He answered  
19 working in construction putting  
20 metals.

21 MR. TURCO: Danny, when you  
22 interpreted that, I didn't hear  
23 working in construction putting metals  
24 in.

25 THE INTERPRETER: In the same

1 S. Espinoza

2 area of construction.

3 Q. When did you start this job, do  
4 you know?

5 A. After I stopped working at that  
6 other job, around January.

7 Q. January of 2019?

8 A. Yes.

9 Q. What was the name of the person  
10 or company you worked for?

11 A. It was an odd job.

12 Q. How long did you work at this  
13 odd job putting metals?

14 A. About two months more or less or  
15 something like that.

16 Q. Can you describe for me what you  
17 mean by putting metals, what that means.

18 A. Okay. The metals that go behind  
19 this.

20 (Indicating)

21 MR. TURCO: Indicating the wall.

22 Q. You are talking about the  
23 installing metal columns that hold  
24 interior walls?

25 A. Yes.

1 S. Espinoza

2 Q. Were you working for a company  
3 or a person or something else?

4 A. It was for a person.

5 Q. Do you know the name of that  
6 person?

7 A. No.

8 Q. Were you wearing any safety  
9 equipment in connection with that job?

10 A. Goggles, gloves, only.

11 Q. Did you use any ladders like you  
12 had used in connection with the incident  
13 on June 28, 2019, in connection with that  
14 job?

15 A. The majority of the work or the  
16 jobs were on the ground. They were not  
17 high.

18 Q. Did you use any kind of ladder  
19 in connection with that job?

20 A. Yes, I used.

21 Q. What kind of ladder?

22 A. Type A.

23 Q. When you are talking about type  
24 A, are you referring to the same type of  
25 ladder that was involved in the incident



1 S. Espinoza

2 on June 28, 2019?

3 A. Yes.

4 Q. What was the reason why you left  
5 this job?

6 A. It was too scarce of work, not  
7 that much work, I stayed home too much.

8 MR. RICHMAN: You want to stop  
9 here, Danny? I know you have to leave  
10 at 2:30.

11 [At this time Nora Youmans,  
12 Spanish interpreter, entered the Zoom  
13 meeting.]

14 We are going to take a half hour  
15 break for lunch.

16 MS. YOUMANS: No problem.

17 MR. TURCO: We wanted to see  
18 that you are on board. We are going  
19 to convene at three o'clock and go to  
20 about 4:20 today and break.

21 [Whereupon, after a luncheon  
22 recess was taken, the following was  
23 had:]

24 A F T E R N O O N S E S S I O N

25 BY MR. RICHMAN:

1 S. Espinoza

2 Q. Prior to lunch, we were talking  
3 about your second job while you were  
4 living in the United States of putting  
5 metals or columns for interior walls.

6 You said you started in or about  
7 January of 2019 and worked there for two  
8 months; correct?

9 A. Yes.

10 Q. What was the reason you left  
11 that job?

12 A. Because they didn't have any  
13 jobs.

14 Q. What was your next job?

15 A. Working with this gentleman.

16 Q. Working with what gentleman?

17 A. With the company. The company.

18 Q. We are talking about Jim  
19 Associates?

20 A. Yes.

21 Q. When did you start working for  
22 Jim Associates, what month?

23 A. Approximately in May.

24 Q. Of what year?

25 A. 2019.

1 S. Espinoza

2 Q. How did you get that job?

3 A. From a friend.

4 Q. Did you do an interview with a  
5 person at Jim Associates in connection  
6 with getting that job?

7 A. No.

8 Q. Did you submit any paperwork  
9 through them in connection with getting  
10 that job?

11 A. No.

12 Q. Did you have any conversations  
13 with anyone about getting that job?

14 A. Yes, I was unemployed and I was  
15 looking for a job.

16 Q. Who did you speak to first at  
17 Jim Associates in connection with getting  
18 that job?

19 A. His name is Jorge.

20 Q. Is his last name Moscoso,  
21 M-O-S-C-O-S-O?

22 A. I don't know his last name.

23 Q. Was Jorge the owner, as far as  
24 you know, from Jim Associates?

25 A. I didn't know.

1 S. Espinoza

2 Q. Did you know who the owner of  
3 Jim Associates was?

4 THE INTERPRETER: One second.  
5 He said something else after his  
6 answer.

7 A. At the beginning I didn't know.  
8 Then I heard that he was like the owner or  
9 a partner. I don't know exactly.

10 Q. Before the lunch break, you  
11 talked about you took some OSHA classes,  
12 do you recall?

13 A. Yes.

14 Q. Were you employed by anyone at  
15 the time you took these OSHA classes?

16 A. I was unemployed.

17 Q. What was the reason you took the  
18 OSHA classes?

19 MR. TURCO: Did he say he was  
20 unemployed?

21 MR. RICHMAN: He said he was  
22 unemployed.

23 MR. TURCO: Thank you.

24 A. They asked for this. It was a  
25 requirement in order to get a job.

1 S. Espinoza

2 Q. Who is the they that asked for  
3 this?

4 A. In the places I was like are  
5 looking for a job.

6 Q. Was taking an OSHA class a  
7 requirement when you were working at the  
8 job before Jim Associates?

9 A. No, after I left that job.

10 Q. After you left that job where  
11 you were putting metals on interior walls,  
12 you were looking for employment at other  
13 prospective employers wanted you had to  
14 take OSHA classes; is that correct?

15 A. Yeah, at that time I wasn't  
16 working.

17 Q. How many OSHA classes did you  
18 take?

19 A. All the classes, thirty hours.

20 Q. Did you get a certificate that  
21 you completed the OSHA classes?

22 A. Yes.

23 Q. Do you have at a certificate?

24 A. I have the card.

25 MR. RICHMAN: I am going to ask

1 S. Espinoza

2 for the production. I'll send you a  
3 separate D & I.

4 Q. When did you take the thirty  
5 hours of OSHA classes?

6 MR. TURCO: It was OSHA 30 he  
7 said?

8 MR. RICHMAN: Yes.

9 THE INTERPRETER: Can you repeat  
10 the question.

11 Q. When did you take the thirty  
12 hours of OSHA classes?

13 A. I don't remember the date  
14 exactly.

15 Q. Although you don't remember the  
16 date, it was sometime prior to working at  
17 Jim Associates and after working at the  
18 prior job where you were putting the  
19 metals on the interior walls; correct?

20 A. Something like that, yes.

21 Q. Where did you attend these  
22 classes?

23 A. In Queens.

24 Q. Do you know where?

25 A. The address I don't know. I

1 S. Espinoza

2 don't know the address exactly.

3 Q. Were the OSHA classes live,  
4 in-person?

5 A. Yes.

6 Q. Did you take any other classes  
7 other than the thirty hours of OSHA  
8 classes?

9 A. No.

10 Q. Do you have a driver's license?

11 A. No, I haven't done that.

12 Q. Do you drive a car?

13 A. Not at this moment.

14 Q. Did you drive a vehicle when you  
15 were employed at Jim Associates?

16 A. Sometimes I will park, just  
17 that.

18 Q. Did you ever have a driver's  
19 license, New York State driver's license?

20 MR. TURCO: Note my objection.

21 This is sort of irrelevant.

22 MR. RICHMAN: I am not going any  
23 further. That is the last question.

24 Q. Did you ever have a driver's  
25 license, New York State driver's license?

1 S. Espinoza

2 A. In Ecuador.

3 Q. But not in New York State;  
4 correct?

5 A. No, not from New York.

6 Q. Did you file a Workers'  
7 Compensation claim as a result of this  
8 incident?

9 A. I don't know exactly what you  
10 are referring to.

11 Q. Do you know what a Workers'  
12 Compensation claim is?

13 A. If you are referring to the  
14 Compensation?

15 Q. Yes.

16 A. Yes.

17 Q. Are you represented by an  
18 attorney in the Workers' Compensation  
19 claim?

20 A. Yes.

21 Q. Can you tell me his or her name?

22 A. I don't remember.

23 MR. RICHMAN: Will you supply  
24 his contact information?

25 MR. TURCO: I can give you the



1 S. Espinoza

2 name now.

3 By counsel, it's Fogelgaren,  
4 Forman & Bergman.

5 Q. Sir, have you ever been in an  
6 auto accident?

7 A. No.

8 Q. Have you ever been in any  
9 accident other than this incident that  
10 took place on June 28, 2019?

11 A. No.

12 Q. What is your current height and  
13 weight?

14 A. Approximately five-seven and my  
15 weight approximately two hundred ten  
16 pounds.

17 Q. Did you gain or lose any weight  
18 since the incident?

19 A. I gained weight.

20 Q. How much did you gain?

21 A. Before this my weight was one  
22 hundred sixty-five pounds approximately.

23 Q. You gained approximately  
24 forty-five pounds since the incident?

25 A. Yes.

1 S. Espinoza

2 Q. Are you left-handed or  
3 right-handed?

4 A. Right-handed.

5 Q. Do you wear glasses at all,  
6 prescription glasses or contact lenses?

7 A. Only to drive but lately I  
8 haven't been using them at all.

9 Q. Are those prescription glasses  
10 you need to drive?

11 A. For the sun.

12 Q. You mean sunglasses?

13 A. Yes.

14 Q. You don't use glasses to see  
15 things either close or faraway; right?

16 A. No, I don't need.

17 Q. Are you currently employed?

18 A. No.

19 Q. When is the last time you were  
20 employed?

21 A. Before the accident.

22 Q. Since the accident on June 28,  
23 2019, to-date, you have never had any  
24 employment; is that correct?

25 A. Yes.

1 S. Espinoza

2 Q. Are you currently enrolled in  
3 any school or vocation?

4 A. English school.

5 Q. Are you presently attending  
6 school to learn English?

7 A. Yes.

8 Q. What school, where?

9 A. It's a school that belongs to  
10 the government. It's close to my house.

11 Q. Do you know the name of the  
12 school?

13 A. No.

14 Q. How long have you been attending  
15 this school?

16 A. Approximately two or three  
17 weeks.

18 Q. Are the classes live?

19 A. Yes.

20 Q. How long are the classes in a  
21 particular day?

22 A. Six to 8:30 Mondays -- Tuesdays,  
23 Wednesdays, and Thursdays.

24 Q. What hours?

25 A. Six to 8:30.

1 S. Espinoza

2 Q. When you started working at Jim  
3 Associates, did you have an agreement with  
4 them as to what your salary would be?

5 A. He told me that I was going to  
6 get paid according to my improvement.

7 Q. When you started at Jim  
8 Associates, how much did you get paid?

9 A. Somewhere around six hundred.

10 Q. \$600 per week?

11 A. Yes, something like that.

12 Q. What were your hours?

13 A. It wasn't like regular, there  
14 were no regular hours.

15 Q. When you started work at Jim  
16 Associates, what were your average number  
17 of hours per day or per week?

18 A. Sometimes I would get there at 6  
19 a.m. or 7 a.m. and from there, we will  
20 count eight hours.

21 Q. Eight hours per day?

22 A. Yes.

23 Q. You said before that you started  
24 in May 2019.

25 Approximately when did you start

1 S. Espinoza

2 in May? Was it the beginning of May, the  
3 end of May, something else?

4 A. The exact day I don't know.

5 Q. For how many weeks did you work  
6 for Jim Associates before the incident  
7 happened?

8 A. I usually don't count the time  
9 when I am working.

10 MR. BRIGANTIC: It was not  
11 responsive.

12 Q. Did you work for Jim Associates  
13 about four to six weeks before the  
14 incident happened or something else?

15 A. Yeah, probably it could be  
16 something like that. I don't count the  
17 time. I only count the checks in the  
18 weekends.

19 Q. Did you work for Jim Associates  
20 at least four weeks before the incident  
21 happened?

22 A. I don't remember. I don't know  
23 exactly the number of weeks.

24 Q. Was your paycheck always the  
25 same every week?

1 S. Espinoza

2 A. Sometimes a little more.

3 Q. How much is a little more?

4 A. When I work Saturdays, it will  
5 be seven hundred.

6 Q. If you work more than forty  
7 hours, did you receive overtime pay?

8 A. Well, it was just a little more,  
9 like three or four or five more dollars.

10 Q. Three, four, \$5 more per hour?

11 A. Yes.

12 Q. Did you file tax returns for  
13 2019?

14 A. I would have to check.

15 MR. RICHMAN: I think I had  
16 called for the production of 2018 tax  
17 returns, I am going to call for the  
18 production of the 2019 tax returns,  
19 and I'll send it in a separate D & I.

20 MR. BRIGANTIC: I looked back  
21 during lunch at my Combined Demands to  
22 the plaintiff and I already asked for  
23 tax returns and was told the plaintiff  
24 didn't have them.

25 MR. TURCO: Taken under

1                   S. Espinoza  
2           advisement. He was not self-employed.  
3           It is our position, you are not  
4           entitled to the tax returns and there  
5           is case law that supports this.

6                   We did, however, provide you  
7           with his Workers' Compensation Board  
8           authorizations and we also provided  
9           you with his employment  
10          authorizations, which contains his  
11          rate of pay and everything having to  
12          do with his lost wage claim.

13                   However, if you want to send the  
14          request, we will take it under  
15          advisement.

16                   MR. BRIGANTIC: What I am  
17          saying --

18                   MR. RICHMAN: Bob, Bob, it's my  
19          deposition.

20                   MR. BRIGANTIC: I know.

21                   MR. RICHMAN: You can do yours.

22                   MR. BRIGANTIC: All I said was I  
23          already sent it. Go ahead.

24                   MR. TURCO: That's fine.

25          Q.       When you started at Jim

1 S. Espinoza

2 Associates, what was your job position?

3 Did it have a name to it?

4 A. I didn't have like a name or  
5 anything. I was doing like everything  
6 they asked me to. I was like a helper.

7 Q. You considered yourself while  
8 employed at Jim Associates a helper; is  
9 that correct?

10 MR. TURCO: Note my objection.

11 Asked and answered. He said HE  
12 did a little bit of everything.

13 MR. RICHMAN: That is not my  
14 question though.

15 A. Can you repeat the question.

16 Q. Did you consider yourself a  
17 helper as an employee working for Jim  
18 Associates?

19 A. I cannot answer to that.

20 Q. Did you consider yourself a  
21 laborer while you were employed at Jim  
22 Associates?

23 A. I could do like whatever job  
24 they asked me to like in general.

25 Q. Did you consider yourself a



1 S. Espinoza

2 carpenter while you were employed at Jim  
3 Associates?

4 MR. TURCO: Note my objection.  
5 You can answer.

6 A. Yes.

7 Q. When you were working at Jim  
8 Associates, did you have a direct  
9 supervisor, a person who told you what to  
10 do?

11 A. No. They will only indicate me  
12 what to do.

13 Q. Say is again.

14 A. They will only indicate me what  
15 to do.

16 Q. Can you tell me the name of the  
17 person that would tell you what to do?

18 A. Jorge and sometimes we will work  
19 together.

20 Q. Jorge would tell you what to do  
21 when you were working on a particular job  
22 site; correct?

23 A. Yes.

24 Q. When you were working at Jim  
25 Associates before this incident, before

1 S. Espinoza

2 the incident happened --

3 MR. RICHMAN: Withdrawn.

4 Q. Did you work on numerous job  
5 sites before this incident happened all  
6 while you were employed at Jim Associates?

7 MR. TURCO: Objection to form.

8 You can answer.

9 A. Yes.

10 Q. Tell me how you would get to  
11 work, get to a particular job site?

12 A. I would take the train to the  
13 office and then this man would take me to  
14 the job site.

15 Q. You would leave your home and  
16 you would take a train to the offices of  
17 Jim Associates each morning that you were  
18 working; correct?

19 A. Yes.

20 Q. Then you would go in a car or a  
21 van to the job site with Jorge; correct?

22 A. In a van.

23 Q. Would you go with other people  
24 that were working at Jim Associates other  
25 than you and Jorge?

1 S. Espinoza

2 A. Most the time I will work with  
3 Jorge.

4 Q. Were there job sites that you  
5 were working on with people in addition to  
6 you and Jorge before the incident?

7 A. Yes, more people.

8 MR. BRIGANTIC: Was there any  
9 answer to whether there were other  
10 people that were in the van when he  
11 went to work?

12 THE INTERPRETER: The answer to  
13 that was sometimes I would --

14 MR. TURCO: Sometimes.

15 THE INTERPRETER: No. Most of  
16 the time I work with Jorge. That was  
17 his answer.

18 MR. BRIGANTIC: The answer  
19 doesn't go with the question.

20 Q. Sometimes you would be in the  
21 van with other people that were employees  
22 of Jim Associates; correct?

23 MR. TURCO: Objection to form.  
24 You can answer.

25 A. I prefer not to answer.

1 S. Espinoza

2 Q. No, no, no, you have to answer.

3 MR. TURCO: If you can rephrase  
4 the question, was there anyone else in  
5 the van.

6 MR. RICHMAN: I'll rephrase it.

7 Q. When you went to a job site  
8 with Jorge, first of all, all the jobs  
9 sites you went to while you were working  
10 at Jim Associates, was Jorge always with  
11 you?

12 A. Most of the jobs sites, yes.

13 Q. Did you ever go to any job sites  
14 alone?

15 A. Yes.

16 Q. Did you ever go to job sites  
17 with people in addition to Jorge?

18 A. Yes.

19 Q. Were those other people  
20 employees of Jim Associates?

21 A. It was a brother and another  
22 employee.

23 Q. It was Jorge's brother?

24 A. Yes.

25 Q. Do you know his name?

1 S. Espinoza

2 A. No.

3 Q. Do you know the names of any  
4 other employees that you went to any job  
5 sites with before this incident happened?

6 MR. TURCO: Note my objection.

7 A. No.

8 Q. No, you don't know their names  
9 or no, you don't want to tell me their  
10 names?

11 A. I usually don't learn the other  
12 people's names.

13 MR. BRIGANTIC: It's  
14 nonresponsive.

15 Q. Did you know the names of these  
16 other people that you went on different  
17 job sites at the time that you went on  
18 these job sites with these other people  
19 other than you and Jorge?

20 MR. TURCO: Note my objection.

21 Asked and answered. You can  
22 answer again.

23 MR. RICHMAN: He didn't answer  
24 it.

25 A. I usually don't remember the

1 S. Espinoza

2 names.

3 Q. Do you remember their names  
4 today; yes or no?

5 MR. TURCO: Note my objection.

6 Nora, are you translating my  
7 objections?

8 THE INTERPRETER: Yes, I said  
9 objection but you can answer.

10 A. No, the only thing I know, one  
11 was a brother and the other one was a  
12 clerk.

13 Q. The clerk is the one that went  
14 in the van to job sites with you at times?

15 A. Yes. I don't understand.

16 Q. You just said the clerk would go  
17 with you and Jorge or go with you  
18 sometimes at various job sites.

19 When you said the clerk, what do  
20 you mean by a clerk?

21 A. The name of this person, I don't  
22 remember at this moment, maybe later.

23 Q. Is the name of this person  
24 Clerk?

25 A. No, I don't think so.

1 S. Espinoza

2 Q. What did you mean when you just  
3 said clerk, what do you mean by that?

4 A. Yeah, it's a person that does  
5 the checks.

6 Q. The person that does the checks  
7 sometimes went to the job site with you  
8 and Jorge?

9 A. Yes, sometimes.

10 Q. How many projects, how many job  
11 sites, different job sites did you go to  
12 before the incident took place on June 28,  
13 2019?

14 MR. TURCO: Objection to form.  
15 He can answer.

16 A. Around three or four job sites.

17 Q. The first job site that you went  
18 to when you started working at Jim  
19 Associates, do you recall where that job  
20 site was?

21 A. One was in Brooklyn, the other  
22 one in the Bronx, and the other one in  
23 Queens or Long Island, somewhere there.

24 Q. Was the first job in Brooklyn?

25 A. No.

1 S. Espinoza

2 Q. Where was the first job?

3 A. I think somewhere in Queens. I  
4 don't remember.

5 MR. TURCO: Don't guess.

6 If you don't know for sure, let  
7 them know you don't know for sure.

8 THE WITNESS: Okay.

9 Q. You are not sure where the first  
10 job site was; correct?

11 A. I don't know.

12 Q. Do you recall what work was  
13 being done at that job site, the first job  
14 site you did while working at Jim  
15 Associates?

16 A. They were building bathrooms,  
17 they were building apartments, working in  
18 the bathrooms.

19 Q. What did you do at that first  
20 job site?

21 A. Sheetrock, plywood on the  
22 ground, and prepare the walls.

23 Q. Who supervised your work on that  
24 first project?

25 A. There is another person there.



1 S. Espinoza

2 Q. What is his or her name?

3 A. I don't remember the name.

4 Q. Was Jorge there on that first  
5 job?

6 A. Yes, he will get there to the  
7 job site.

8 Q. Did he tell you what to do at  
9 the job site, Jorge?

10 A. Yes.

11 Q. When you were first started  
12 working at Jim Associates, were you given  
13 any safety equipment?

14 A. What kind of safety?

15 Q. You tell me.

16 MR. TURCO: Note my objection.  
17 If you want to break it down.

18 Q. Did Jim Associates provide you  
19 with any safety goggles?

20 A. One moment, let me remember.

21 MR. TURCO: Do you need to  
22 stand? Your back?

23 MR. RICHMAN: He said helmet.

24 A. Goggles and a hardhat.

25 Q. Goggles and a hardhat. Anything

1 S. Espinoza

2 else?

3 A. Gloves. That is all.

4 Q. Did you use your safety goggles,  
5 hardhat, and gloves on the first job site  
6 while you were working at Jim Associates?

7 A. Yes.

8 Q. Did you wear them all the time  
9 that you were working?

10 A. Most time I would use gloves and  
11 a hardhat.

12 Q. What about safety goggles?

13 A. Only when I was going to cut  
14 wood or some metal.

15 Q. Do you remember where the second  
16 job site was while you were working at Jim  
17 Associates?

18 A. It was in Brooklyn. It was a  
19 demolition.

20 Q. What did you do at that job  
21 site?

22 A. Demolish a wall and also the  
23 roofs.

24 Q. Were you wearing safety  
25 equipment during that project?

1 S. Espinoza

2 A. Yes.

3 MR. TURCO: Hold on. I got to  
4 take this, my wife.

5 There is no, there is no  
6 question pending; right?

7 MR. RICHMAN: No.

8 [A pause in the proceedings.]

9 MR. RICHMAN: Please read back  
10 the last question and answer.

11 [The requested portion of the  
12 record was read.]

13 Q. Describe the safety equipment  
14 that you had or were wearing or using?

15 A. Hardhat and gloves.

16 Q. Did Jim ever provide you with a  
17 safety harness on any projects that you  
18 worked on?

19 A. I don't remember.

20 Q. What was the third job site that  
21 you were working on for Jim Associates?

22 MR. TURCO: Prior to the subject  
23 site?

24 MR. RICHMAN: Yes.

25 A. I think it was a house in

1 S. Espinoza

2 Brooklyn. We went to paint something. I  
3 don't know exactly.

4 Q. What did you do there?

5 A. We painted the apartment.

6 Q. Was there a fourth job site  
7 before the incident happened or was that  
8 when the incident happened, the fourth job  
9 site?

10 A. Let me remember. I think it was  
11 a house that we were paint something  
12 there. I think it was in Queens or Long  
13 Island, somewhere there.

14 Q. What did you do, painting?

15 A. We wash the ground and then we  
16 paint the outside or the house.

17 Q. What was the next job site,  
18 which would be the fifth job site, where  
19 was that?

20 A. The accident would be.

21 MR. TURCO: Counsel for Dava  
22 Partners has to attend a Court  
23 Conference at 4:30. He requested that  
24 the deposition end today now.

25 We consent to the ending of the

1 S. Espinoza

2 deposition at this time. However, we  
3 are going to produce my client for one  
4 more day of deposition, as the day is  
5 probably four hours of actual  
6 testimony, to the extent that counsel  
7 for Davs Partners and Kalnitech have  
8 to expedite their question asking so  
9 we do not have to produce our client  
10 again for a third time.

11 MR. BRIGANTIC: I am not  
12 consenting to have my questioning  
13 limited by someone else's duration.  
14 I'll follow up and I am not going to  
15 redo stuff but I am not going to agree  
16 that I can't question somebody if the  
17 whole time is exceeded.

18 MR. TURCO: No one is telling  
19 you are not allowed to question him.  
20 I think we can expedite it. Today was  
21 choppy. I think Keith would agree we  
22 can get through liability and damages  
23 in one more full day.

24 MR. RICHMAN: I don't see why  
25 not.

1 S. Espinoza

2 MR. BRIGANTIC: Me neither if we  
3 start early.

4 MR. TURCO: We will have our  
5 respective offices coordinate the next  
6 date.

7 [TIME NOTED: 4:17 p.m.

8

9

10 STALIN RODRIGO REYES ESPINOZA

11

12

13

14

15 Subscribed and sworn to

16

17 before me this \_\_\_\_\_

18

19 day of \_\_\_\_\_ 2021.

20

21

22 Notary Public

23

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CERTIFICATION

I, Carol Ellinghaus, a Notary Public  
for and within the State of New York, do  
hereby certify:

That the witness whose testimony as  
herein set forth, was duly sworn by me;  
and that the within transcript is a true  
record of the testimony given by said  
witness.

I further certify that I am not  
related to any of the parties to this  
action by blood or marriage, and that I am  
in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 30th day of November,  
2021.



CAROL ELLINGHAUS

\* \* \*



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ERRATA SHEET  
VERITEXT/NEW YORK REPORTING, LLC

CASE NAME: ESPINOZA V. DAVS PARTNERS  
DATE OF DEPOSITION: 11/17/21  
WITNESS' NAME: STALIN ESPINOZA

[illegible]

STALIN RODRIGO REYES ESPINOZA  
SUBSCRIBED AND SWORN TO  
BEFORE ME THIS \_\_\_\_\_ DAY  
OF \_\_\_\_\_, 2021.

NOTARY PUBLIC

MY COMMISSION EXPIRES

[& - approximately]

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New York Code  
Civil Practice Law and Rules  
Article 31 Disclosure, Section 3116

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

- - - - -x

STALIN RODRIGO REYES ESPINOZA,  
Plaintiff,

-against-

DAVS PARTNERS LLC AND KALNITECH  
CONSTRUCTION COMPANY,

Defendants.

- - - - -x

Veritext Virtual

March 24, 2022

11:09 a.m.

CONTINUED EXAMINATION BEFORE TRIAL of  
STALIN RODRIGO REYES ESPINOZA, the  
Plaintiff in the above-entitled action,  
held at the above time and place, taken  
before Carol Ellinghaus, a Notary Public  
of the State of New York, pursuant to an  
Order and stipulations between Counsel.

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605 3rd Avenue, 9th Floor  
New York, New York 10158

BY: ROBERT BRIGANTIC, ESQ.

ALSO PRESENT: Alice Dow,  
Spanish Interpreter

\* \* \*

1 S. Espinoza

2 A L I C E D O W

3 The interpreter, having first been duly  
4 sworn by the Notary Public, interpreted  
5 from English to Spanish and from Spanish  
6 to English to the best of her ability, as  
7 follows:

8 S T A L I N R O D R I G O R E Y E S

9 E S P I N O Z A,

10 the Witness herein, having first been  
11 duly sworn by the Notary Public, was  
12 examined and testified as follows:

13 EXAMINATION BY

14 MR. RICHMAN:

15 Q. What is your name?

16 A. Stalin Rodrigo Reyes Espinoza.

17 Q. Where do you reside?

18 A. 32-22 55th Street, Woodside, New  
19 York 11377.

20 THE COURT REPORTER: Counselor,  
21 would you like a copy of the  
22 transcript?

23 MR. BRIGANTIC: Yes.

24 MR. RICHMAN: Good

25 morning, Mr. Espinoza.

1 S. Espinoza

2 THE WITNESS: Good morning.

3 MR. RICHMOND: This is a  
4 continuation of your deposition that  
5 took place on November 17, 2021.

6 THE WITNESS: Okay.

7 MR. RICHMOND: I represent Davs  
8 Partners, LLC, a defendant in this  
9 lawsuit.

10 THE WITNESS: I understand.

11 MR. RICHMAN: The same cautions  
12 that I gave you last time apply here,  
13 namely; that I am asking questions in  
14 English, the Spanish interpreter is  
15 interpreting them into Spanish, and  
16 you are answering the questions in  
17 Spanish and the interpreter will give  
18 them back to me in English.

19 Do you understand that?

20 THE WITNESS: Yes.

21 Q. Where are you presently, sir?

22 A. In the lawyer's office.

23 Q. Is the attorney in the room with  
24 you?

25 A. Yes.

1 S. Espinoza

2 Q. Is anyone else in the room?

3 A. No.

4 Q. Are you currently under any  
5 medication at the moment?

6 A. No.

7 Q. When is the last time you took  
8 any medication, prescription medication?

9 A. Yesterday.

10 Q. What did you take yesterday?

11 A. Painkillers.

12 Q. Do you know what painkillers you  
13 took yesterday?

14 A. I don't remember the name at  
15 this time.

16 Q. Was it more than one painkiller  
17 or only one?

18 A. Two.

19 Q. Two, and do you know what doctor  
20 prescribed those painkillers to you?

21 A. The doctor that examines my arm  
22 and my back.

23 Q. Is that one doctor or more?

24 A. There are two doctors.

25 Q. Can you tell me their names?

1 S. Espinoza

2 A. I don't remember at this time.

3 MR. RICHMOND: Please leave a  
4 space in the record and I'll ask the  
5 witness to tell me the names of the  
6 doctors and the name of the  
7 painkillers.

8 THE WITNESS: I understand.

9 (Insert)

10

-----  
11 Q. The painkillers that you take,  
12 what are they for?

13 A. For pain.

14 Q. Pain where?

15 A. My arm, my back, and my nose.

16 Q. Your arm, your back, and your  
17 nose?

18 A. Yes.

19 Q. Can you describe that pain to me  
20 in your arm?

21 Which arm is it?

22 A. The right arm.

23 Q. What portion of the arm?

24 A. In my hand and this part over  
25 here.

1 S. Espinoza

2 (Indicating)

3 Q. Can you describe the pain in  
4 your arm?

5 A. It's a five.

6 Q. It's a five, what does that  
7 mean?

8 A. Between one and ten, the pain  
9 level is five.

10 Q. How often do you feel that pain?

11 A. Very often.

12 Q. Is it constant or does it come  
13 and go depending on what you do or don't  
14 do?

15 A. It's constant.

16 Q. Is it twenty-four hours a day or  
17 something else?

18 A. It comes momentarily.

19 Q. Do you do anything that causes  
20 the pain to occur?

21 A. Sometimes if I am moving  
22 something, then it will hurt a lot more.

23 Q. Do you sleep at night?

24 A. No.

25 Q. Don't sleep at all?

1 S. Espinoza

2 A. I don't have a continuous sleep.

3 Q. Describe the pain in your back  
4 from one to ten.

5 A. Eight.

6 Q. How often do you have that pain  
7 at a level eight in your back during the  
8 day?

9 A. When I go out walking, when I am  
10 sitting.

11 Q. Describe the pain in your nose.

12 A. The pain in my nose comes once  
13 in a while and when it happens, it affects  
14 my whole head.

15 Q. Does the pain happen as a result  
16 of doing an activity?

17 A. No.

18 Q. How would you describe the pain  
19 on a level of one to ten?

20 A. When the pain comes, it's very  
21 strong, I would say an eight.

22 Q. How often do you take these  
23 painkillers that you said you took  
24 yesterday?

25 A. When the pain becomes extreme.



1 S. Espinoza

2 Q. Do you take these painkillers on  
3 a daily basis?

4 A. Every time I have a strong pain.

5 Q. How often is that?

6 A. It could be every day, maybe  
7 every other day.

8 Q. How long a period of time since  
9 the accident on June 28, 2019 have you  
10 been taken the painkillers?

11 THE INTERPRETER: Did you say  
12 June 28?

13 MR. RICHMAN: Yes.

14 A. After the doctors examined me.

15 Q. Have you been taking the same  
16 painkillers since June 28, 2019 after the  
17 doctors examined you?

18 A. I have taken different pills.

19 Q. Where do you get these pills  
20 from, what pharmacy?

21 A. The doctor prescribes them and I  
22 pick them up at CVS.

23 Q. CVS in what location? Tell me  
24 the address.

25 A. The one closest to my home.

1 S. Espinoza

2 Q. What street is that on?

3 A. I don't have the address right  
4 now.

5 MR. RICHMOND: I'll leave a  
6 space in the record.

7 (Insert)

8

9 Q. Has that been the only CVS  
10 Pharmacy you picked up your prescription  
11 medication at since the accident?

12 A. That is the pharmacy that they  
13 sent the medication to by mail. It's at  
14 that address.

15 Q. I don't understand your answer.  
16 What do you mean by mail, a  
17 prescription by mail or do you pick it up  
18 at CVS?

19 A. Sometimes I didn't have a CVS  
20 close to me so they would send it to me by  
21 mail.

22 Q. CVS would send it to you by  
23 mail?

24 A. The Titan Pharmacy.

25 Q. Is that a mail-order pharmacy

1 S. Espinoza

2 that you are talking about?

3 A. Yes, I just receive them once by  
4 mail.

5 Q. Is that a pharmacy in the United  
6 States, Titan Pharmacy, or somewhere else?

7 A. It's in the United States.

8 Q. Do you have the address for  
9 that?

10 A. No. It works by phone or  
11 something like that.

12 MR. RICHMOND: I am going to ask  
13 you to provide me with whatever  
14 information you have regarding the  
15 Titan Pharmacy.

16 THE WITNESS: Okay. It was  
17 recommended to me by one of the  
18 doctors that attended me.

19 Q. Which doctor was that?

20 A. I don't remember his name at  
21 this time.

22 MR. RICHMOND: I'll leave a  
23 space in the record for you to provide  
24 it to me.

25 Okay?

1 S. Espinoza

2 THE WITNESS: Okay.

3 (Insert)

4

5 Q. Let me take you back to the day  
6 of the accident on June 28, 2019.

7 What day of the week was that?

8 A. A Friday.

9 Q. Do you know where the accident  
10 took place?

11 A. I don't remember the exact  
12 address.

13 Q. Do you remember the building  
14 that you were working in?

15 Can you describe it to me?

16 A. It's a building, one-floor  
17 building.

18 Q. Was that the first day that you  
19 were at that building on June 28 or were  
20 you there prior to that day?

21 A. I had been there before. I had  
22 worked there before.

23 Q. When before June 28 how many  
24 days?

25 A. I don't remember exactly.

1 S. Espinoza

2 Q. Was it the day before June 28 or  
3 something else?

4 A. It could have been during that  
5 week but I don't remember exactly.

6 Q. On June 28, 2019, the day of the  
7 accident on Friday, what time did you  
8 arrive at the building approximately?

9 A. At eight in the morning.

10 Q. How did you get there?

11 A. They brought me in a van.

12 Q. At that time you were working  
13 for Jim Associates?

14 A. Yes.

15 Q. Were there other Jim Associates  
16 employees or personnel on the job site on  
17 the day of the accident, June 28?

18 A. Yes.

19 Q. Tell me their names.

20 A. No, I cannot because I don't  
21 know everyone's name and I don't remember.

22 Q. How many other people were there  
23 from Jim Associates in addition to  
24 yourself?

25 A. Just give me a minute so I can

1 S. Espinoza

2 think. As far as I remember, there were  
3 approximately five people there.

4 Q. Were there other people at the  
5 job site other than these five people from  
6 Jim Associates?

7 A. Yeah, there were other people  
8 there.

9 Q. First of all, how many other  
10 people were there in addition to the five  
11 people from Jim Associates?

12 A. I couldn't tell you.

13 Q. Was it more than five or less?

14 A. I don't remember exactly.

15 Q. Do you remember what anybody  
16 else was doing at the job site that day?

17 A. No, I was concentrating on what  
18 I was doing.

19 Q. Was Jorge there that day?

20 A. He had gone out right at that  
21 moment but he was there that day.

22 Q. Was he your supervisor that day,  
23 Jorge?

24 A. He is my boss.

25 Q. Were there other people at Jim

1 S. Espinoza

2 Associates also employees like you were?

3 A. Yes.

4 Q. When you arrived at the job site  
5 at approximately 8 a.m., tell me exactly  
6 what your first task was to do.

7 A. To finish my task from the day  
8 before.

9 Q. What was that task that you had  
10 to finish?

11 A. I had to finish a closet as soon  
12 as possible.

13 Q. When you say finish a closet,  
14 can you explain to me what you mean by  
15 finish a closet?

16 A. That is what I had to do, I had  
17 to finish it.

18 Q. Were you building a closet, were  
19 you constructing a closet?

20 A. A closet.

21 Q. What kind of closet?

22 A. To hold boxes.

23 Q. Were you working on the closet  
24 alone or with other people at Jim  
25 Associates?

1 S. Espinoza

2 A. At that moment I was alone.

3 Q. Where, tell me the location of  
4 where the closet was?

5 A. It was on the staircase going  
6 down to the basement.

7 Q. When you were working on the  
8 closet, were you using an A-frame ladder?

9 A. Yes.

10 Q. Did you fall from that ladder?

11 A. The ladder fell over and I fell  
12 with it.

13 Q. What time of day did this  
14 happen?

15 A. Between nine and ten in the  
16 morning.

17 Q. Where did you get the ladder  
18 from?

19 A. From the company.

20 Q. Can you describe the ladder to  
21 me.

22 MR. BRIGANTIC: Did he say which  
23 company?

24 MR. RICHMOND: He said from the  
25 company. I'll ask him.



1 S. Espinoza

2 Q. Did you get the ladder from Jim  
3 Associates?

4 A. Yes.

5 Q. Can you describe that ladder to  
6 me?

7 A. It was a six-foot green ladder.

8 Q. Do you know how many steps were  
9 on the ladder?

10 A. Six.

11 Q. Did you ever use that ladder  
12 before June 28?

13 A. Yes.

14 Q. Was the ladder in good  
15 condition, as far as you know?

16 THE INTERPRETER: What was that?

17 MR. RICHMAN: As far as you  
18 know.

19 A. Yes.

20 Q. Before you used the ladder on  
21 June 28 on prior days, did you ever  
22 experience any problems with the ladder?

23 A. No.

24 Q. What was the material of the  
25 ladder?

1 S. Espinoza

2 A. I think it's fiberglass.

3 Q. What was your reason for using  
4 the ladder in working on the closet?

5 A. I had to get up on the ladder to  
6 work inside the closet.

7 Q. Do you know what step you were  
8 on when the ladder fell over?

9 A. On the second one.

10 Q. On the second step?

11 A. On the second one from the top.

12 Q. Second step from the top?

13 A. Yeah, one and two.

14 (Indicating)

15 Q. The second step from the top of  
16 the ladder; is that correct?

17 A. Here is the ladder, here is the  
18 first one, and there is the second one.

19 [Indicating]

20 Q. You were on the second step from  
21 the base of the ladder, from the bottom of  
22 the ladder; correct?

23 A. One and two coming down.

24 Q. That would be the fourth step  
25 from the bottom?

1 S. Espinoza

2 A. Could be.

3 Q. When you were on the step and  
4 the ladder fell, was the ladder open as an  
5 A-frame ladder or was the ladder not open  
6 as an A-frame ladder?

7 A. It was opened in an A-frame  
8 position.

9 Q. Does the ladder have locking  
10 mechanisms when it is opened as an A-frame  
11 ladder?

12 A. Yeah, there is the security  
13 notches in the middle.

14 Q. Did you open the ladder and  
15 place it in an A-frame position and lock  
16 both mechanisms before you went onto the  
17 ladder?

18 A. Yes.

19 Q. When you set up the A-frame  
20 ladder before you went on it, was the  
21 ladder on level ground?

22 A. Yes.

23 Q. When you first got on the  
24 ladder, was the ladder stable?

25 A. Yes.

1 S. Espinoza

2 Q. What kind of shoes were you  
3 wearing when you went on the ladder?

4 A. I don't remember exactly.

5 Q. When you were climbing up the  
6 steps of the ladder, was the ladder still  
7 stable when you were climbing up to the  
8 fourth step?

9 A. Yes.

10 Q. Were you carrying any tools or  
11 anything else in your hand when you went  
12 up on the ladder up to the fourth step?

13 A. Not at that time.

14 Q. Were you wearing a tool belt at  
15 the time or carrying any tools?

16 A. I don't remember exactly.

17 Q. Was it customary when you were  
18 working that you would be wearing a tool  
19 belt?

20 A. Sometimes, yes.

21 Q. Were you wearing one at the time  
22 you went up on the ladder that day, do you  
23 remember?

24 A. I don't remember exactly.

25 Q. At the time that you were

1 S. Espinoza

2 climbing the ladder up to the fourth step,  
3 what was your intention performing any  
4 work?

5 A. To finish whatever was left to  
6 do in the closet.

7 Q. What exactly were you intending  
8 to do when the ladder fell?

9 A. At the moment when the ladder  
10 fell, I was coming down to get material to  
11 be able to finish the closet.

12 Q. Were you carrying anything at  
13 the time?

14 A. No.

15 Q. Did you feel any movement in the  
16 ladder before the ladder fell?

17 A. No.

18 Q. Right before the ladder fell,  
19 were both your legs on one step or two  
20 steps or something else on the ladder?

21 THE INTERPRETER: Did you say  
22 before the ladder fell?

23 MR. RICHMAN: Yes, right before  
24 the ladder fell.

25 A. One of my feet was on one of the

1 S. Espinoza

2 steps but I wasn't able to reach the next  
3 one because before I could put my foot  
4 down on the next one, the ladder fell.

5 Q. Do you know the reason why the  
6 ladder fell?

7 A. No.

8 Q. When you were coming down, you  
9 said the ladder fell. When you were  
10 coming down on the ladder, what step were  
11 you on before you were on the fourth step,  
12 the fifth step or sixth step or something  
13 else?

14 A. It would have been the fourth  
15 one going to the third.

16 Q. Was your weight evenly balanced  
17 on the ladder before it fell?

18 A. It was just normal.

19 Q. I don't know what normal means,  
20 was your weight evenly balanced on the  
21 ladder?

22 A. Yes, it was balanced.

23 Q. Were you wearing any safety  
24 harness at the time you were on the  
25 ladder?

1 S. Espinoza

2 A. No.

3 Q. Were you wearing a hard hat when  
4 you were on the ladder?

5 A. I don't remember that exactly.

6 Q. Would it be customary when you  
7 were on the ladder to be wearing a  
8 hardhat?

9 A. It depended on the job.

10 Q. You don't recall if you were  
11 wearing a hardhat on this occasion?

12 A. On that occasion I don't  
13 remember if I had one or not.

14 Q. Did Jim Associates supply a  
15 hardhat for you while you were working?

16 A. They had given me one.

17 MR. BRIGANTIC: What was that?

18 THE INTERPRETER: They had given  
19 me one.

20 Q. They had given you one but you  
21 don't remember if you were wearing it at  
22 the time you were on the ladder; is that  
23 right?

24 A. I don't remember if my helmet  
25 was on, my hardhat was on or not at that

1 S. Espinoza

2 time.

3 Q. Do you remember now what kind of  
4 footwear you were wearing?

5 Were you wearing sneakers,  
6 construction boots, or something else?

7 A. I don't remember exactly but I  
8 usually used yellow boots.

9 Q. Yellow boots, you mean yellow  
10 construction boots?

11 A. I don't know the exact name but  
12 they are like shoes.

13 Q. Do you know what kind of sole  
14 they have?

15 A. It's like a yellow sole on the  
16 shoe.

17 Q. Was it a flat sole or like a  
18 knobby sole?

19 A. It was knobby.

20 Q. When you were on the ladder and  
21 you were coming down from the ladder to  
22 get material, was that the first time you  
23 were on the ladder that day?

24 A. I had gone up and down it  
25 several times.



1 S. Espinoza

2 Q. That was my next question, how  
3 many times did you go up and down the  
4 ladder before the time that the ladder  
5 fell?

6 A. Between five and ten.

7 Q. Tell me exactly what you were  
8 doing in the closet when you had to go up  
9 and down the ladder.

10 Were you painting, putting in  
11 sheetrock? What exactly do you recall you  
12 were doing?

13 A. I was putting sheetrock.

14 Q. When you were coming down when  
15 you experienced the ladder falling, what  
16 material were you coming down to get?

17 A. I had to go down to analyze what  
18 material I could adopt to the work I was  
19 doing.

20 Q. Can you describe to me the  
21 bottom of the ladder, what the footings  
22 were on the bottom?

23 A. The foot of the ladder, I don't  
24 remember that exactly.

25 Q. Do you know if the foot of the

1 S. Espinoza

2 ladder had any rubber, metal, or plastic  
3 or something else on the bottom of the  
4 ladder?

5 A. Something like that.

6 Q. What did you experience when you  
7 first experienced the ladder falling when  
8 you were coming down?

9 A. I went into shock.

10 Q. What did you feel?

11 A. I felt chills all over my body.

12 Q. What part of your body fell on  
13 to the ground?

14 A. My whole body.

15 Q. Can you tell me what parts?

16 A. My right side.

17 Q. Did the ladder fall on top of  
18 you or did you fall on top of the ladder?

19 MR. KLEIN: Over objection, you  
20 can answer.

21 Q. You can answer.

22 A. I fell on top of the ladder.

23 Q. Can you describe the flooring  
24 that the ladder was sitting on?

25 THE INTERPRETER: The flooring

1 S. Espinoza

2 you said?

3 MR. RICHMAN: Can you describe  
4 what kind of flooring the ladder was  
5 sitting on.

6 A. Cement.

7 Q. Was it level?

8 A. I don't remember exactly.

9 Q. Was the concrete smooth or rough  
10 or something else?

11 A. It was unfinished.

12 Q. When you say it was unfinished,  
13 can you describe what you observed the  
14 concrete floor to be?

15 A. What I am saying is that the  
16 floor was not completely smooth.

17 Q. When the ladder was standing on  
18 the concrete floor that was not completely  
19 smooth, was the ladder steady or not?

20 A. It was stable and firm.

21 Q. Did you ask anyone before you  
22 went up and down the ladder to hold the  
23 ladder for you?

24 A. No, because there wasn't anybody  
25 there at that time. Everybody else was

1 S. Espinoza

2 busy.

3 Q. At the time that you went up and  
4 down the ladder four or five times, there  
5 were other Jim Associates people on the  
6 job site; correct?

7 A. You mean where I was?

8 Q. Where you were, yes.

9 A. I was alone in that corner.

10 Q. Do you recall what kind of  
11 clothes you were wearing?

12 A. I had a green shirt on,  
13 something like that. It was between green  
14 and yellow.

15 Q. Did the shirt have any pockets?

16 A. No.

17 Q. Were you wearing pants or  
18 shorts?

19 A. Pants.

20 Q. Did the pants have pockets?

21 A. Yes.

22 Q. Did you have anything in your  
23 pockets when you went up and down the  
24 ladder?

25 A. A pencil.

1 S. Espinoza

2 Q. What were the lighting  
3 conditions when you were going up and down  
4 the ladder right before the ladder fell?

5 Was it lit, dark, dim, something  
6 else?

7 A. It was -- there was light.

8 Q. Do you know what kind of  
9 lighting there was?

10 A. No, I couldn't tell you that.

11 Q. Was the concrete floor dry or  
12 wet or something else?

13 A. It was dry.

14 Q. Were the steps on the ladder dry  
15 or wet?

16 A. They were dry.

17 Q. Were you wearing any hardware  
18 such as gloves?

19 A. No, I didn't have anything.

20 Q. I asked you before about wearing  
21 a hardhat, you said you don't you didn't  
22 recall.

23 Do you recall wearing a hat,  
24 like a regular hat?

25 A. Sometimes I would use a cap but

1 S. Espinoza

2 I don't remember if I was using it on that  
3 day.

4 Q. You mean like a cap, like a  
5 baseball cap?

6 A. Yeah, similar to that. Like  
7 made out of cloth.

8 Q. When you were coming down from  
9 the ladder right before the ladder you  
10 felt fall, describe for me how you were  
11 coming down the steps of the ladder right  
12 before the ladder fell, where was your  
13 body?

14 A. Do you want me to tell you right  
15 from the very beginning?

16 Q. No. When you were coming down  
17 from the ladder right before the ladder  
18 fell, what was the position of your body?

19 A. I was standing on the ladder  
20 holding onto it.

21 Q. When you were coming down the  
22 ladder, where was the ladder in connection  
23 with you coming down?

24 A. I didn't understand. If you  
25 could repeat the question again.

1 S. Espinoza

2 Q. When you went up the ladder  
3 before you came down the ladder and you  
4 experienced the ladder falling, did you  
5 leave the ladder and go into a space in  
6 the closet?

7 A. I was inside the closet.

8 Q. When you went up the ladder, you  
9 got off the ladder on the last step and  
10 went into the closet; correct?

11 A. I went up and then I went in.

12 Q. When you went into the closet,  
13 you were off the ladder; correct?

14 A. No, when I was in the closet, I  
15 was in the closet.

16 Q. My question is when you were in  
17 the closet, you were not on the ladder;  
18 correct?

19 A. No, I wasn't because the ladder  
20 wouldn't fit in there.

21 Q. Did you leave the ladder and go  
22 into the closet?

23 A. Yes.

24 Q. When you left the closet, then  
25 you had to go onto the ladder to go down

1 S. Espinoza

2 to get material; correct?

3 A. Yes.

4 Q. When you left the closet and  
5 went onto the ladder, what step did you go  
6 onto the ladder?

7 A. I got onto the ladder on the  
8 second rung and I held onto it. I got  
9 onto the ladder with one foot on the  
10 second rung and I hold onto the ladder and  
11 then I put the other foot down.

12 Q. Is that when the ladder fell?

13 A. When I started going down from  
14 there, that is when the ladder fell and I  
15 fell with it.

16 Q. Did the ladder fall when you  
17 first went onto the ladder or did you go  
18 down another step when the ladder fell?

19 A. I had already stepped onto the  
20 ladder and I was moving my right leg onto  
21 the next rung when the ladder fell.

22 Q. Where were your hands at the  
23 time?

24 A. Holding onto the ladder like  
25 this.



1 S. Espinoza

2 (Indicating)

3 Q. What portion of the ladder?

4 A. On the last rung, I was holding  
5 with my hands.

6 Q. Where were you looking?

7 A. I was looking at the ladder.

8 Q. Did anyone see you fall?

9 A. After I fell all of my  
10 co-workers came around.

11 Q. What did you say to them, if  
12 anything?

13 A. No, I didn't say anything to  
14 them but they moved me so I could be more  
15 comfortable because they saw that I had an  
16 accident.

17 Q. Was Jorge there at the time that  
18 you fell?

19 A. No, he was absent at that  
20 moment.

21 Q. Do you recall the names of any  
22 other people that came over to you, any of  
23 the people that came over to you at the  
24 time that the ladder fell?

25 A. I don't remember their names

1 S. Espinoza

2 because I really didn't even know all of  
3 their names.

4 Q. Did you feel any pain at the  
5 time that ladder fell and you fell?

6 A. Yes, I felt it, felt a very  
7 strong pain.

8 Q. Where did you feel the pain?

9 A. My whole right side and also in  
10 my ear and this part that was bleeding.

11 Q. Did your body fall on the ladder  
12 or fall on the ground or both?

13 A. I fell on the ladder first and  
14 then onto the cement.

15 THE INTERPRETER: Can I ask him  
16 to repeat the last part. I didn't  
17 understand very well.

18 MR. RICHMOND: Sure.

19 THE WITNESS: The ladder fell  
20 and I fell onto the cement.

21 Q. You didn't fall on the ladder,  
22 you fell on the concrete floor?

23 A. I fell partly on the ladder and  
24 partly on the cement.

25 Q. Did anyone call 911?

1 S. Espinoza

2 A. Nobody wanted to call 911.  
3 Finally someone who was around called 911.  
4 They wanted to take me out to the street.

5 Q. Did the police arrive?

6 A. No.

7 Q. Did anyone call EMS?

8 A. Yes, somebody called.

9 Q. Did EMS come?

10 A. Yes, they came.

11 Q. Did you say anything to them  
12 when they came?

13 A. Yes, they asked me what was  
14 hurting.

15 Q. What did you say to them?

16 A. Everything, where I felt pain on  
17 my right side.

18 Q. Did they ask you how the  
19 accident happened?

20 A. I think so.

21 Q. What did you say to them?

22 A. I told them about everything  
23 that was in pain.

24 Q. Did you tell them how the  
25 accident happened?

1 S. Espinoza

2 A. Yes, I told them about how the  
3 accident happened.

4 Q. What did you tell them?

5 A. That the ladder fell over and I  
6 fell too.

7 Q. Did they ask you why the ladder  
8 fell?

9 A. I don't remember if they asked  
10 me that.

11 Q. Were you given any medical  
12 treatment after you fell, immediately  
13 after you fell?

14 A. Yes.

15 Q. Do you recall what they gave  
16 you, what they did?

17 A. They put me on the stretcher and  
18 they gave me intravenous and they took me.

19 Q. Did you go to the hospital?

20 A. Yes.

21 Q. Was that North Shore Hospital?

22 A. It was University Hospital,  
23 something like that.

24 Q. Do you know whether or not  
25 anyone took any photographs of the ladder

1 S. Espinoza

2 being --

3 MR. RICHMOND: Withdrawn.

4 Q. To your knowledge, did anyone  
5 take photographs of the ladder that fell?

6 A. No, I don't remember.

7 Q. Did you ever see any photographs  
8 depicting the ladder that fell?

9 A. I saw some photographs when the  
10 ladder was on the ground, was on the  
11 floor.

12 Q. Do you know who took those?

13 A. No.

14 Q. Do you know where those  
15 photographs are today?

16 A. I don't know.

17 Q. Do you know if your attorney has  
18 those photographs?

19 A. It seems like he does.

20 MR. RICHMAN: I am going to call  
21 for the production and I'll send you a  
22 separate D&I for that.

23 Q. Did you report this incident and  
24 prepare any written reports regarding how  
25 the incident happened?

1 S. Espinoza

2 A. I spoke with my lawyers.

3 Q. Other than speaking to your  
4 attorneys, did you give an accident report  
5 or describe how the accident took place to  
6 anyone else other than your attorneys?

7 A. I don't remember exactly.

8 Q. Do you remember talking to  
9 anyone other than your attorneys about how  
10 this accident took place?

11 A. I was in a panic at that moment.

12 Q. After the incident happened, did  
13 you ever tell anyone else how the incident  
14 happened other than your attorneys?

15 A. It seems like my boss asked me  
16 what happened.

17 Q. Your boss meaning Jorge?

18 A. Yes.

19 Q. What did you say to him?

20 A. I don't know. I think I just  
21 told him what happened, that is all.

22 Q. Do you recall what you said to  
23 him?

24 A. I remember I said to him that  
25 there had been an accident with the

1 S. Espinoza

2 ladder.

3 Q. Do you recall saying else to  
4 him?

5 A. I don't remember very well what  
6 I said to him.

7 Q. Did he ask you to explain why  
8 the ladder fell?

9 A. I don't remember very well  
10 because I was in a panic and I was  
11 nervous.

12 Q. Anytime after did you ever tell  
13 Jorge or anyone at Jim Associates how the  
14 accident happened and why the ladder in  
15 your opinion fell?

16 A. No. I just talked about what  
17 had happened, that is all.

18 Q. My question is did you tell him  
19 what happened?

20 Do you recall what you said, the  
21 details?

22 A. I told him that I was working  
23 and all of a sudden, the ladder fell and I  
24 fell with it.

25 Q. Do you know if OSHA investigated

1 S. Espinoza

2 the incident?

3 A. I don't know. I have no  
4 knowledge of that.

5 Q. When you got to the hospital,  
6 what did they do for you?

7 A. They asked me my name.

8 Q. Did they ask you how the  
9 incident happened?

10 A. They asked me where the pain  
11 was.

12 Q. Did they ask you what happened  
13 regarding the ladder incident?

14 A. I don't remember very well what  
15 they asked me.

16 Q. Did anyone direct you to do work  
17 on the site where the ladder fell other  
18 than Jorge?

19 A. No, because I always worked with  
20 Jorge.

21 Q. Was Jorge the only person that  
22 directed you what you should be doing on  
23 the job site?

24 A. Yeah, most of the time, yes.

25 Q. Was there anyone else that



1 S. Espinoza

2 directed you to do work at the job site  
3 other than Jorge is my question?

4 A. In other jobs sometimes my  
5 co-workers would tell me.

6 Q. No, I am talking being this job.

7 A. No, for this job he was the only  
8 one that gave me instructions directly.

9 Q. How long did you remain in the  
10 hospital for?

11 A. They released in the afternoon.

12 Q. What time did you arrive at the  
13 hospital?

14 A. It was approximately between ten  
15 and eleven.

16 Q. What time were you discharged?

17 A. I am not sure but it might have  
18 been between three and four in the  
19 afternoon.

20 Q. What did they do for you in the  
21 hospital?

22 A. They gave me -- they examined me  
23 and gave me intravenous and they put  
24 something on my hands, my arm and they  
25 positioned -- put my wrist back into

1 S. Espinoza

2 place.

3 Q. That is your right wrist;  
4 correct?

5 A. Yes.

6 Q. Are you a righty?

7 A. I am right-handed.

8 Q. Do you write with your right  
9 hand?

10 A. Yes, but it's hard for me. It  
11 starts hurting very quickly.

12 Q. Do you hold a fork and a spoon  
13 in your right hand?

14 A. Yes.

15 Q. When you were discharged from  
16 the hospital, where did you go?

17 A. Home.

18 Q. How did you get home?

19 A. My brother came for me.

20 Q. Did you tell your brother how  
21 the accident happened?

22 A. I just told him I had an  
23 accident and he should come and get me.

24 Q. Since the accident you have been  
25 living with your brother; correct?

1 S. Espinoza

2 A. Yes.

3 Q. Tell me his full name again.

4 A. My brother's?

5 Q. Your brother.

6 A. Manuel Euclides Reyes Espinoza.

7 Q. Since the accident have you  
8 lived with anyone else other than your  
9 brother?

10 A. In my former apartment, I was  
11 living with another two people. Those  
12 were the people I rented the apartment  
13 with.

14 Q. Currently you are only living  
15 with your brother?

16 A. Yes.

17 Q. Have you worked at all since the  
18 day of the incident?

19 A. No.

20 Q. Have you looked for any  
21 employment since the incident happened?

22 A. No. I am not capable of  
23 working.

24 Q. Tell me what your chronic  
25 complaints are.

1 S. Espinoza

2 A. My whole body hurts on my right  
3 side. I have some very difficult days.

4 Q. When you say your whole body  
5 hurts, what parts of your right side hurt?

6 A. Here and here and here.

7 (Indicating)

8 Q. Let's describe what you are  
9 demonstrating. You described parts of  
10 your head?

11 A. Yes.

12 Q. What part of your head?  
13 Describe in words.

14 MR. KLEIN: Tell him to say  
15 words, not this or that.

16 Q. Instead of showing me on the  
17 video, please tell me what parts of your  
18 head you are complaining about today.

19 A. My nose, my forehead, and my  
20 right ear.

21 Q. Anything else?

22 A. For my head you mean?

23 Q. Yes.

24 A. Sometimes my whole head hurts  
25 and it's unbearable.

1 S. Espinoza

2 Q. Describe what your complaint is  
3 regarding your nose.

4 A. I get these really strong pains  
5 in my nose and they go up to my forehead.

6 Q. How often?

7 A. It depends. It depends. It  
8 just comes, it could be the climate but it  
9 pain just starts.

10 Q. Do you see a doctor for that?

11 A. Yes.

12 Q. What is the doctor's name that  
13 you currently are seeing for the  
14 complaints of your nose?

15 A. I am not seeing anybody right  
16 now.

17 Q. When is the last time you saw  
18 any doctor regarding any complaints of  
19 your nose?

20 A. I saw him for the last time last  
21 year but I don't remember the month.

22 Q. Last year being in 2021?

23 A. Yes.

24 Q. Was it the beginning of the  
25 year, the end of the year, or something

1 S. Espinoza

2 else?

3 A. I don't remember exactly.

4 Q. Do you remember the name of the  
5 doctor that you saw for complaints  
6 regarding your nose?

7 A. I don't remember his name right  
8 at this time.

9 MR. RICHMOND: I'll leave a  
10 space in the record and you can fill  
11 it in; okay?

12 THE WITNESS: Yes.

13 (Insert)

14 -----  
15 Q. Did you see any doctors for the  
16 complaints that you had in your head?

17 A. No.

18 Q. Did you ever see a doctor for  
19 the complaints that you had in your head  
20 since the incident in June of 2019?

21 A. No, I didn't have that part  
22 examined, just my nose they operated on.

23 Q. When was the operation on your  
24 nose?

25 A. I don't remember the date very

1 S. Espinoza

2 well.

3 Q. Do you recall if it was in July  
4 of 2019?

5 A. I think it was more or less a  
6 year after that but I don't remember the  
7 date.

8 Q. Was your nose fractured?

9 A. Yes.

10 Q. Were there sutures as a result  
11 of the fracture?

12 A. They did surgery.

13 Q. Do you know in connection with  
14 the surgery, whether or not they put  
15 sutures in and they were removed  
16 approximately a month after the surgery?

17 A. I had something going up my  
18 nostrils here.

19 [Indicating]

20 Q. After the surgery did you ever  
21 see a doctor regarding complaints on your  
22 nose?

23 A. Yes, several times.

24 Q. Was it always the same doctor  
25 that you don't recall the name?

1 S. Espinoza

2 A. Yes, the nose doctor was the  
3 same.

4 Q. Do you know if the nose doctor  
5 was Dr. Nelson Botwinck?

6 A. I don't remember the name of the  
7 doctor.

8 MR. RICHMOND: We will leave a  
9 space.

10 (Insert)

11

12 Q. Did you ever see --

13 MR. RICHMOND: Withdrawn.

14 Q. What complaints do you have  
15 today about your right ear?

16 A. I was deaf for a while over here  
17 on this part.

18 (Indicating)

19 Q. For what period of time, were  
20 you deaf in your right ear?

21 A. After the accident for about  
22 five months.

23 Q. Did you see a doctor as a result  
24 of that?

25 A. I think I went to a doctor after



1 S. Espinoza

2 a while and he gave me some drops to clean  
3 out my ears but I don't remember very  
4 well.

5 MR. RICHMOND: I'll leave a  
6 space in the record and you can fill  
7 in the name of the doctor.

8 (Insert)

9

10 Q. Did you do anything for your  
11 right ear other than being given drops?

12 A. No, but I heard everything very  
13 faraway with this ear.

14 Q. Do you still have hearing  
15 problems in your right ear?

16 A. Lately it's been better but I  
17 don't know how it will be in the future.

18 Q. When is the last time you saw a  
19 doctor regarding any complaints in your  
20 right ear?

21 A. That was in 2019. I don't know  
22 the date.

23 Q. Have you seen a doctor for any  
24 complaints of your right ear in the last  
25 year?

1 S. Espinoza

2 A. No.

3 Q. Have you seen any doctor for any  
4 complaints in your right ear in the last  
5 two years?

6 A. No, I haven't received treatment  
7 for that ear.

8 Q. The painkillers that we were  
9 talking about before, do you take any of  
10 those painkillers for any pain in your  
11 nose?

12 A. I take them for any of the pains  
13 that I feel all over my body.

14 Q. Does that include your nose?

15 A. Yes.

16 Q. What other parts of your body  
17 are you currently complaining about, your  
18 nose, your head, and your right ear?

19 A. My whole body.

20 Q. When you had surgery on your  
21 nose, where was that done?

22 A. In Manhattan.

23 Q. Was that done in a hospital?

24 A. In a hospital.

25 Q. What hospital?

1 S. Espinoza

2 A. I couldn't tell you the name  
3 because I don't know it. I don't remember  
4 it.

5 Q. How long did you stay in the  
6 hospital for?

7 A. I don't remember that very well.

8 Q. Was it overnight or during an  
9 amount of hours?

10 A. I don't remember that very well.

11 MR. RICHMOND: I am going to ask  
12 for the hospital records regarding  
13 that and I'll send a separate D&I  
14 request for that as well.

15 Q. When you say the rest of your  
16 body hurts, let's talk about your right  
17 arm.

18 Is it your right arm you are  
19 complaining about or your right wrist you  
20 are complaining about?

21 A. It's all the way from my right  
22 shoulder all the way down to my wrist and  
23 sometimes the pain in my wrist is so  
24 severe that it passes into my hands, to  
25 the top of my hands.

1 S. Espinoza

2 Q. Did you have surgery on your  
3 right wrist?

4 A. Yes.

5 Q. Was that done in July of 2019,  
6 if you know?

7 A. The end of July.

8 Q. Of 2019?

9 A. Yes.

10 Q. When is the last time you saw a  
11 doctor regarding complaints in your arm  
12 and your wrist?

13 A. A month ago more or less.

14 Q. What is the name of the doctor  
15 you are seeing?

16 A. It was a female doctor, and I  
17 don't know her name.

18 Q. Is that Dr. Kaplan?

19 A. It was a woman.

20 Q. Has it always been the same  
21 doctor or different doctors?

22 A. Several doctors.

23 Q. Do you recall any of their  
24 names?

25 A. No.

1 S. Espinoza

2 MR. RICHMOND: We will leave a  
3 space in the record and you'll provide  
4 me with the names.

5 (Insert)

6

7 Q. How often do you see these  
8 doctors since the incident happened  
9 regarding your right arm and wrist of  
10 wrist?

11 A. I have been going to see them  
12 all the time those doctors.

13 Q. How often have you seen them  
14 since the time of the incident?

15 A. Sometimes every month or every  
16 three months or every six months. It  
17 would depend.

18 Q. When you go to see them, what do  
19 they do for you?

20 A. They examine my arm and they ask  
21 me how I am doing.

22 Q. In addition to going to these  
23 doctors, do you take painkillers when you  
24 feel the pain?

25 A. Yes.

1 S. Espinoza

2 Q. Are the painkillers prescribed  
3 to you by the doctors that you see  
4 regarding your arm and your wrist?

5 A. Yes, they are the ones that  
6 prescribe the painkillers.

7 THE INTERPRETER: Can we take a  
8 little break at sometime?

9 MR. RICHMAN: Let's take it now.  
10 How long would you like?

11 THE INTERPRETER: Ten minutes.

12 [A pause in the proceedings.]

13 Q. Sir, in connection with the  
14 complaints in your right arm and right  
15 wrists, have you been going to the same  
16 doctors since the incident happened?

17 A. Yes.

18 Q. Do you know the name of the  
19 facility that you go to?

20 A. It's around 151st or 159th,  
21 something like that.

22 Q. Is it called New York Downtown  
23 Hand Center?

24 A. I haven't noticed the name.

25 Q. Who told to go there?

1 S. Espinoza

2 A. I saw my attorney and she got me  
3 an appointment to go there.

4 Q. You have done therapy in  
5 connection with your right arm or and your  
6 right wrist since the incident?

7 A. Yes.

8 Q. What kind of therapy do you do?

9 A. I don't know exactly what kind  
10 of therapy but they give me massages and  
11 they put my hand into a machine that heats  
12 up my whole arm.

13 Q. How often do you do that since  
14 the incident?

15 A. I did it before but lately I  
16 haven't done it.

17 Q. When is the last time you had  
18 any therapy on your right arm and right  
19 wrist?

20 A. It was a while ago but I don't  
21 remember the dates.

22 Q. Was it more than a year ago?

23 A. I couldn't say because I don't  
24 remember the exact date.

25 Q. What was the reason why you

1                   S. Espinoza  
2       stopped going to therapy?

3           A.       The doctor didn't prescribe any  
4       more therapy.

5                   MR. BRIGANTIC:   Didn't what?

6                   MR. RICHMAN:   Didn't provide any  
7       more therapy.

8                   MR. BRIGANTIC:   Thanks.

9                   MR. RICHMAN:   We will leave a  
10       space in the record and you'll let me  
11       know to the best of your ability,  
12       when it was that you stopped going to  
13       therapy; okay?

14                   THE WITNESS:   Okay.

15       (Insert)

16       -----  
17           Q.       Since the incident have you done  
18       any finger exercises on your right hand?

19           A.       The therapy sessions, yes.

20           Q.       You haven't done any finger  
21       exercises since the therapy sessions  
22       ended?

23           A.       At home I did some a little bit  
24       but I haven't done it lately.

25           Q.       When is the last time you did



1 S. Espinoza

2 any finger exercises?

3 A. I don't remember that.

4 Q. What was the reason why you  
5 stopped doing finger exercises?

6 A. Because I started to look for  
7 other ways to move my hand.

8 Q. What were those other ways?

9 A. I had a ball that someone lent  
10 to me that I could squeeze.

11 Q. Do you do that currently?

12 A. No, I don't have the ball  
13 anymore.

14 Q. Describe the ball.

15 A. It's a little softball.

16 Q. When is the last time you used  
17 the little softball to squeeze?

18 A. I don't remember the date.

19 Q. More than a year ago?

20 A. It could be but I really don't  
21 remember.

22 Q. What is the reason why you  
23 didn't get another little squeegee ball?

24 A. No, I just haven't looked for  
25 one to buy it.

1 S. Espinoza

2 Q. Tell me what else you are  
3 currently complaining about of the parts  
4 of your body.

5 A. My lower back, my legs, my arm,  
6 and my nose?

7 Q. We talked about your arm and  
8 your nose. We talked about your leg.

9 A. My lower back, both right and  
10 left and my two legs and my bottom.

11 Q. Your buttocks?

12 A. Yes.

13 Q. What are your complaints about  
14 your lower back currently?

15 A. I get these really strong pains  
16 in my lower back and sometimes my legs  
17 grow numb and they just grow numb. The  
18 other day it happened to me just recently  
19 from my right buttocks all the way down,  
20 my leg went numb and I was riding on the  
21 bus and it was very uncomfortable.

22 Q. When is the last time after the  
23 incident that you ever saw a doctor  
24 regarding the complaints in your lower  
25 back, your legs, and your buttocks?

1 S. Espinoza

2 THE INTERPRETER: Did you say  
3 the last time?

4 MR. RICHMAN: Yes.

5 A. They gave me an injection just a  
6 few days ago.

7 Q. Is that the same doctor that you  
8 see for your right arm and wrist or  
9 another doctor?

10 A. It's another doctor, a  
11 specialist in the lower back and the  
12 spinal column and all that.

13 Q. Is that Dr. Matthew Grimm?

14 A. I don't remember the name. I  
15 don't know if that is him.

16 Q. When is the last time saw any  
17 doctor in connection with your lower back?

18 A. Last week I saw the doctor that  
19 is treating for my lower back and he gave  
20 me an injection.

21 MR. RICHMAN: I'll leave a space  
22 in the record for his name.

23 (Insert)

24 -----

25 Q. Did he give you an epidural or

1 S. Espinoza

2 something else?

3 THE INTERPRETER: Excuse me, I  
4 think he wanted to say something else.

5 MR. RICHMAN: I'm sorry.

6 A. Yes, I want to say something  
7 about my back.

8 Q. Tell me what you want to tell me  
9 about your back.

10 A. My back, sometimes when I am  
11 walking, besides the pains that I feel,  
12 sometimes when I am walking, my whole side  
13 just gives out and collapses and so I  
14 can't walk.

15 Q. How often does that happen?

16 A. When I'll be standing up  
17 sometimes, I lose the strength and the  
18 control that I have over my body.

19 Q. How often does that happen?

20 A. This happens one or two times a  
21 week or sometimes more.

22 Q. What treatment are you getting  
23 for your complaints to your back?

24 A. I am receiving therapy for it  
25 now but lately it's been so severe that

1 S. Espinoza

2 when I am standing up when that happens, I  
3 have to sit down immediately. If there  
4 isn't any place for me to sit, I have to  
5 go find someplace to lean on because I  
6 can't hold myself up.

7 Q. Are you seeing different doctors  
8 for your legs and your buttocks as opposed  
9 to your back or is all this being seen by  
10 one doctor?

11 A. There are two doctors but then  
12 there is also another doctor. There are  
13 several doctors and since they change,  
14 that also is confusing. Right now, for  
15 example, I am feeling a lot of pain  
16 sitting here right now. Sometimes when I  
17 am sleeping, the pain will wake me up and  
18 I will get these sudden pains that really  
19 pull my morale down.

20 Q. The doctors that you are seeing  
21 for your back, legs, and buttocks, are you  
22 prescribed medication by those doctors?

23 A. They give me painkillers for the  
24 pain.

25 Q. You get painkillers from one

1 S. Espinoza

2 sets of doctors for your right wrist and  
3 separate pain medication by the doctors  
4 that you see for your lower back, legs,  
5 and buttocks; is that correct?

6 A. Yes, sometimes I take two or  
7 three of those pills when the pain gets  
8 really bad and the pills don't have any  
9 affect.

10 Q. These prescriptions that are  
11 given to you, are they all filled at the  
12 CVS Pharmacy we were talking about?

13 A. Yes, I always receive them at  
14 CVS.

15 Q. You have filed a Workers'  
16 Compensation claim; correct?

17 A. Yes.

18 Q. Have you attended hearings?

19 A. Yes, they have been calling by  
20 phone but they haven't called me lately.

21 Q. Have you given testimony at  
22 Workers' Compensation hearings?

23 A. Yes.

24 Q. Have you received Workers'  
25 Compensation benefits?

1 S. Espinoza

2 A. Yes.

3 Q. What benefits have you received?

4 A. The surgery, the doctors at  
5 therapy, the pills, the check they send me  
6 every fifteen days.

7 Q. How much do you receive?

8 A. \$800 every fifteen days.

9 Sometimes it goes up and down.

10 Q. You receive a check from  
11 Workers' Compensation for \$800 every  
12 fifteen days; is that correct?

13 A. Yes, sometimes it goes down.

14 Q. Down to how much?

15 A. If I remember correctly, it's  
16 gone down to -- it has even gone down to  
17 four hundred approximately.

18 MR. RICHMAN: I am going to call  
19 for the production of all the payments  
20 that you received from Workers'  
21 Compensation.

22 I'll send a separate D&I.

23 Q. What is the name of your  
24 Workers' Compensation attorney?

25 A. I don't know his name.

1 S. Espinoza

2 MR. RICHMAN: I'll leave a space  
3 in the record for his name and contact  
4 information; okay?

5 THE WITNESS: Okay.

6 (Insert)

7

8 Q. Do you receive any Social  
9 Security Disability benefits?

10 A. No. I have never asked for it  
11 and I don't receive it.

12 Q. Do you have any medical  
13 insurance today?

14 A. No, I don't have any health  
15 insurance policy.

16 Q. Sir, what, if anything, can you  
17 no longer do today as a result of the  
18 injuries sustained in this incident?

19 A. I can't work. I can't go  
20 shopping to get the things that I need. I  
21 have trouble bathing, washing myself. I  
22 have trouble writing, walking, sleeping.  
23 I can't lift up anything, weight. Again I  
24 can't work. I can't do anything.

25 Q. Does anyone assist you bathing?



1 S. Espinoza

2 THE INTERPRETER: Excuse me.

3 MR. RICHMAN: Does anyone assist  
4 you in bathing.

5 A. No.

6 Q. Does anyone cook for you?

7 A. Sometimes. Otherwise, I have to  
8 do it with my left hand.

9 Q. Can you cook food for yourself  
10 to eat with your left hand?

11 A. I can only do things with my  
12 left hand.

13 Q. You don't do anything with your  
14 right hand?

15 A. I can write for a little while  
16 but then it will start to be extremely  
17 painful and I have to stop. The same when  
18 I am walking, I can walk and then all of a  
19 sudden, the pain comes and I have to find  
20 someplace to sit down.

21 Q. How long can you walk until you  
22 have pain that you have to sit down?

23 A. It varies because the pain  
24 starts all of a sudden. When I am walking  
25 up and down stairs or when I am walking in

1 S. Espinoza

2 the street it could be. I can't twist my  
3 body around more than this (Indicating)  
4 because if I try, then it affects my lower  
5 back.

6 Q. Do you go food shopping?

7 A. I do go shopping but I have to  
8 do everything with my left hand. I can't  
9 pick anything up with my right hand.

10 Q. When you go food shopping, do  
11 you carry bags of groceries back to your  
12 apartment from the food store?

13 A. Didn't understand that exactly,  
14 could you repeat that.

15 Q. You said you go food shopping  
16 but you can't carry anything in your right  
17 hand; correct?

18 A. No, I can't carry anything with  
19 my right hand.

20 Q. Do you carrying bags of  
21 groceries in your left hand?

22 A. Yes, I carry them back to my  
23 house with my left hand.

24 Q. How often do you go food  
25 shopping?

1 S. Espinoza

2 A. But when I'm carrying things in  
3 my left hand, as soon as I get home, then  
4 my back starts to hurt terribly so then I  
5 have to walk like with very tiny little  
6 steps and do things very slowly.

7 Q. What floor is your apartment on?

8 A. It's a basement.

9 Q. Do you go down stairs to the  
10 basement?

11 A. Yes.

12 Q. Do you walk down steps or is  
13 there an elevator?

14 A. I have to walk down the stairs.

15 Q. How many steps are there?

16 A. I don't -- I couldn't tell you  
17 but it's not very -- it's not a lot.

18 Q. Is it more than five steps?

19 A. From ten to twelve, something  
20 like that.

21 Q. How many times a day do you  
22 leave your apartment?

23 A. It depends on what I am going to  
24 do.

25 Q. What activities do you do when

1 S. Espinoza

2 you leave your apartment?

3 A. I go to classes, I go to  
4 therapy, I go to the doctor, I go to the  
5 pharmacy and maybe I go to buy something  
6 to eat.

7 Q. Are you still taking classes for  
8 English?

9 A. Yes.

10 Q. Where did you go for those  
11 classes?

12 A. It's a subway stop of the R  
13 Train. I am not sure Queens Plaza but I  
14 am not sure.

15 Q. How far is that from your house?

16 A. Ten minutes on the train.

17 Q. You take the subway to get  
18 there?

19 A. Yes.

20 Q. How far is the subway station  
21 from your apartment?

22 A. It's not very far. It's about  
23 five minutes walking.

24 Q. Do you go outside of your  
25 apartment for anything else other than

1 S. Espinoza

2 what you just testified to?

3 A. Sometimes I go to buy clothes  
4 for my daughter and also I have gone to  
5 sign up for driving classes. Sometimes I  
6 just to go out to the park or something  
7 like that.

8 Q. Is your daughter still living in  
9 Ecuador?

10 THE INTERPRETER: What is that?

11 MR. RICHMAN: Is your daughter  
12 still living in Ecuador.

13 A. Yes.

14 Q. Tell me about your English  
15 classes, can you speak English now?

16 A. I can understand some things but  
17 I have trouble speaking. I bought a  
18 program at Best Buy that helps me to read  
19 and also to speak but because of my state  
20 of mind, being nervous and stressed, I  
21 have had difficulty going ahead with that  
22 and I also go to the school.

23 Q. How often do you go to the  
24 school for classes?

25 A. Tuesday, Wednesday, and Thursday

1 S. Espinoza

2 mornings.

3 Q. For how long each time?

4 A. I go from nine to one in the  
5 afternoon.

6 Q. Do you sit in a chair for those  
7 four hours?

8 A. Yes, I take two or three pills  
9 to be able to sit for the class.

10 Q. Do you use a computer?

11 A. In the class or at home?

12 Q. Both.

13 A. I have a computer at home but  
14 sometimes I use the computer when I am  
15 taking a course.

16 Q. What do you use the computer for  
17 at home?

18 A. To review and learn new  
19 vocabulary in English and sometimes to  
20 watch a movie or something of the sort.

21 Q. Do you do any chores around the  
22 house or your apartment?

23 A. I use the broom to clean up the  
24 dust and sometimes I use the mop but I  
25 have to use it very carefully.

1 S. Espinoza

2 Q. Do you your own laundry?

3 A. Yes. I take my clothes to the  
4 laundry to have them wash it.

5 Q. Do you carry your clothes there  
6 and carry them back?

7 A. Sometimes I carry it with my  
8 left arm and then I have something I put  
9 it in and sometimes take it in a little  
10 cart, like a supermarket cart but it's  
11 smaller.

12 Q. Do you have any hobbies?

13 A. I don't know what that word is.  
14 I like music. I like to watch movies. I  
15 also like to look at photography, and I  
16 am also interested in cars, in vehicles.

17 Q. Are there hobbies that you had  
18 done before the incident that you can no  
19 longer do?

20 A. Before I was interested in  
21 working longer hours so I could make more  
22 money but now I can't work at all.

23 Q. Do you currently have any  
24 surgeries scheduled?

25 A. No, I have already had them all

1 S. Espinoza

2 done.

3 Q. Do you drink alcohol?

4 A. I did before the accident. I  
5 would drink but since the accident, I  
6 don't drink at all but I do smoke.

7 Q. Do you smoke cigarettes?

8 A. Yes.

9 Q. How many a day?

10 A. It depends on my state of mind.  
11 If I'm sad or depressed, then I'll smoke  
12 more but if I am just in a normal state of  
13 mind, I don't smoke much.

14 Q. How much would you estimate you  
15 smoke a day?

16 A. A package every two days.

17 Q. Do you have Internet access?

18 A. Yes.

19 Q. Do you have a Facebook account?

20 A. Yes.

21 Q. What is the Facebook account?

22 A. Flaco Reys.

23 THE INTERPRETER: Flaco is like  
24 -- it's just like a common name that  
25 people call each other, hey, this guy,



1 S. Espinoza

2 that guy kind of thing. Literally it  
3 means skinny guy but it's like a  
4 nickname.

5 Q. How long have you had that  
6 Facebook account for?

7 A. I couldn't tell you but it's a  
8 quite a while.

9 Q. Do you send money to your  
10 daughter?

11 A. Yes.

12 Q. How much do you send her and how  
13 often?

14 A. I send her monthly one fifty and  
15 sometimes I buy her clothes, not really a  
16 lot.

17 Q. Let's me clarify something that  
18 was confusing at the last deposition, are  
19 you currently married or you are not  
20 married?

21 A. I was never officially married.  
22 I just lived with my daughter's mother but  
23 after the accident, things got very  
24 complicated and now we are not together at  
25 all.

1 S. Espinoza

2 Q. We meaning you and your  
3 daughter's mother?

4 A. I didn't understand that.

5 Q. Where does your daughter's  
6 mother live?

7 A. Ecuador.

8 Q. Have you traveled at all since  
9 the incident?

10 A. No.

11 Q. Do you have any plans to leave  
12 the United States?

13 A. No.

14 Q. Are you pursuing your  
15 immigration status currently?

16 A. Yes.

17 Q. What is your current status?

18 MR. KLEIN: Objection but he can  
19 answer.

20 A. I don't want to answer.

21 MR. KLEIN: You have to answer.

22 MR. RICHMOND: You have to  
23 answer.

24 A. Okay, if you could ask the  
25 question again, please.

1 S. Espinoza

2 Q. What is your immigration status?

3 MR. KLEIN: Over objection, you  
4 can answer.

5 MR. RICHMAN: Maybe you have to  
6 tell him he has to answer the  
7 question.

8 MR. KLEIN: I did. You have to  
9 answer the question.

10 Are you undocumented?

11 A. I started to go court and start  
12 the process for my paperwork but it became  
13 complicated and I haven't had the funds to  
14 be able to pay the lawyer to be able to  
15 work on the situation.

16 Q. Tell me what your understanding  
17 is of your current immigration status.

18 A. I am refugee.

19 Q. Have you ever applied for  
20 refugee status?

21 A. Yes.

22 Q. What is the status of that?

23 What have you done to apply for  
24 refugee status?

25 A. I asked for political asylum.

1 S. Espinoza

2 Q. What is the current status of  
3 your request for political asylum?

4 A. It's just beginning. There is a  
5 long way to go. I have presented myself  
6 at court here.

7 Q. When did you apply for political  
8 asylum?

9 A. I went to the Court hearing  
10 2 '19 but it really started when I was in  
11 Texas when immigrants come into the  
12 country.

13 Q. Explain to me when you say 2  
14 '19, is that the date you applied,  
15 February 2019?

16 A. When I came into the country in  
17 2 '18, I applied for political asylum.

18 With the immigration lawyer, I  
19 think I have to apply again, as far as I  
20 understand.

21 Q. When is the lat time you pursued  
22 anything with an immigration lawyer  
23 regarding your status in the United  
24 States?

25 A. In 2019, between January and

1 S. Espinoza

2 February, something like that.

3 Q. Have all your complaints, your  
4 physical complaints, improved at all since  
5 the incident on June 28, 2019?

6 A. I don't understand. If you  
7 could clarify.

8 Q. Your allege that you have  
9 suffered various injuries as a result of  
10 falling from the ladder on June 28, 2019.

11 Have any of those complaints  
12 improved at all since that time?

13 A. My hand has improved and I am  
14 able to walk better, somewhat better.  
15 When I am sitting down for a long time,  
16 then my back gets all heated up or my body  
17 gets very cold.

18 Q. What is the reason you are  
19 taking classes in English?

20 A. English is very foreign me.

21 Q. Why is that?

22 A. I need to learn how to speak  
23 English so I can do some things I am  
24 planning to do in the future here.

25 Q. What are you planning to do in

1 S. Espinoza

2 the future here?

3 A. There are a lot of things I want  
4 to do but especially I planning to start a  
5 salesmanship for buying and selling cars.

6 Q. Your current plan to be a  
7 salesman, to sell cars?

8 A. Yes, something like that more or  
9 less. To start a business, to have  
10 somebody else invest and I could start it  
11 up and then somebody else could help to  
12 manage it.

13 Q. Have you done anything in  
14 connection with starting up that business?

15 A. Not up until this moment, I  
16 haven't been able to and the bank denied  
17 my request for a loan.

18 Q. What bank did you request a loan  
19 from?

20 A. Citibank.

21 Q. How much were you requesting?

22 A. I requested \$10,000 so that I  
23 could start from the very bottom and start  
24 learning about it and go forward.

25 Q. It was your plan to sell cars on

1 S. Espinoza

2 the Internet or live or something or a  
3 combination?

4 A. On the Internet.

5 Q. It was your plan to buy and sell  
6 used vehicles, used cars?

7 A. Yes, to get on to the auctions  
8 and to get the cars and fix them up and  
9 then sell them.

10 Q. Have you bought or sold any cars  
11 since the incident?

12 A. No, I haven't up to this point,  
13 made any sales or purchases.

14 Q. Is the reason because you have  
15 not been approved for your loan from  
16 Citibank?

17 A. Yes, yes, because I was already  
18 in touch with the dealer and I already had  
19 an arrangement to buy a vehicle and try it  
20 out and that is where I was.

21 Q. Do you have any hobbies  
22 currently?

23 A. Outside of that have you mean?

24 Q. Outside of buying and selling  
25 cars, yes.

1 S. Espinoza

2 A. I also like the gardening  
3 business and roofing?

4 Q. Do you currently play any  
5 sports?

6 A. No.

7 Q. Have you played any sports  
8 before the incident?

9 A. I am not very active in sports.

10 Q. When you say you have an  
11 interest in gardening, is that gardening  
12 like a business or your personal pleasure  
13 that you are talking about?

14 A. To make a business.

15 Q. Have you taken any steps in  
16 regard to starting a gardening business  
17 since the incident?

18 A. No, I just watch some videos and  
19 it interests me but I haven't taken any  
20 steps in that direction. On the contrary,  
21 with the cars I actually had a plan to  
22 start buying but since there wasn't money,  
23 I couldn't.

24 Q. How many hours a day do you  
25 spend on your computer?



1 S. Espinoza

2 A. It depends on the day. If I am  
3 not sleepy, then it could be a long time.

4 Q. How many hours approximately on  
5 average?

6 A. It could be two hours to five  
7 hours or the whole day, depends on how my  
8 days is going. It depends on how my  
9 wounds are and how my lower back feels.

10 Q. Approximately how many hours a  
11 day do you spend watching television?

12 A. I don't have television. My  
13 brother does. If I watch it, it's only  
14 ten, fifteen, twenty minutes maybe.

15 Q. Do you watch any movies or  
16 things on your computer?

17 A. Yes.

18 Q. How many hours a day would you  
19 average doing that?

20 A. It's not every day. It's from  
21 time to time.

22 MR. RICHMAN: Thank you.

23 I have no further questions.

24 EXAMINATION BY

25 MR. BRIGANTIC:

1 S. Espinoza

2 MR. BRIGANTIC: Do you go by  
3 Mr. Espinoza or Mr. Reyes?

4 THE WITNESS: Reyes, Stalin  
5 Reyes, that is what they call he.

6 MR. BRIGANTIC: You prefer  
7 Mr. Reyes.

8 THE WITNESS: That is fine.

9 MR. BRIGANTIC: Thank you.

10 Mr. Reyes, I represent one of  
11 the defendants in this case, and I am  
12 going to have some follow-up  
13 questions.

14 THE WITNESS: Okay. I  
15 understand.

16 Q. You testified earlier about  
17 taking painkillers.

18 Those are prescription  
19 medications; correct?

20 A. Yes.

21 Q. The last time you took them was  
22 yesterday?

23 A. Yes.

24 Q. You don't remember what the pain  
25 medication is?

1 S. Espinoza

2 A. No, I don't remember right now.

3 Q. Do you have the pain medication  
4 with you?

5 A. Here you mean?

6 Q. Yes.

7 A. No, I don't have it here.

8 Q. Do you have it at your house?

9 A. Yes.

10 Q. You testified that you usually  
11 get the prescriptions at CVS?

12 A. Yes.

13 Q. Do you have a CVS card?

14 A. No.

15 Q. Who pays for the medication?

16 A. The insurance.

17 Q. When you check out, do you  
18 submit it to the insurance company to pay  
19 it?

20 A. They give me the medication and  
21 the bill says zero on it. There isn't any  
22 cost.

23 Q. When you refill the  
24 prescription, you don't have to pay for it  
25 and get reimbursed?

1 S. Espinoza

2 A. I just present my name and they  
3 give it to me. I need to go down and do  
4 that now.

5 Q. At the Titan Pharmacy that you  
6 referred to, is that mail-order only or is  
7 it a physical location in Queens?

8 A. I really don't have much idea  
9 about how that pharmacy works.

10 Q. That is not my question.  
11 My question is, is that a  
12 physical location or is it a mail-in?

13 A. It's just a mail-in.

14 Q. With the CVS do you get a text  
15 message on your cell phone to say your  
16 prescription is ready?

17 A. Yes.

18 Q. Do you recall when the last time  
19 was you refilled the pain prescription,  
20 pain medication prescription?

21 A. It must be about a month ago,  
22 something like that.

23 Q. How frequently do you usually  
24 get it refilled?

25 A. I don't refill it. Just once I

1 S. Espinoza

2 refilled it.

3 Q. Do you recall when you started  
4 work at the location where you got  
5 injured?

6 A. I don't remember exactly.

7 Q. The payroll records we got from  
8 Jim Associates seems to say that you  
9 started in the last week of April 2019.

10 Is that correct?

11 A. I think so. I think that is  
12 right, but I am really not so sure.

13 Q. You think you worked at that  
14 location for about two months before you  
15 got injured, does that sound about right?

16 A. You mean the place?

17 Q. Yes. Did you work at this  
18 particular location about two months  
19 before you got injured?

20 A. We had been working in several  
21 different places.

22 Q. I am not talking about several  
23 different places, I am talking about the  
24 location in which you were injured.

25 Did you work there for about two

1 S. Espinoza

2 months before you got injured?

3 A. No, I would just go there once  
4 in a while.

5 Q. You didn't go there regularly on  
6 a daily basis?

7 A. Before the accident I had been  
8 there for a week or two, that is all.

9 Q. When you worked at the location  
10 where you got injured, would you usually  
11 start at about eight a.m.?

12 A. It depended on the time that I  
13 arrived.

14 Q. When did you usually start?

15 A. Usually I would get to the  
16 office and they would take me there to the  
17 job, work site. I didn't get paid for  
18 that. When I got there, that is when my  
19 workday would usually begin.

20 Q. When did you usually start work  
21 at the job site?

22 A. At eight.

23 Q. Before you would start work in  
24 the morning --

25 MR. BRIGANTIC: Withdrawn.

1 S. Espinoza

2 Q. Do you know what a toolbox  
3 meeting is?

4 A. I don't know what that is.

5 Q. You have never heard of that  
6 term?

7 A. No, I haven't.

8 Q. When you worked construction,  
9 did you ever attend a meeting with other  
10 workers before you started the day to go  
11 over what you would be doing and what  
12 rules you should be following?

13 A. Sometimes yes.

14 Q. Did that happen on this job  
15 leading up to before you got injured?

16 A. I don't remember about that day.

17 Q. I am not referring to just to  
18 that day.

19 What I am saying is when you  
20 were working on this job site that you  
21 were injured on, did you attend any  
22 meetings at which somebody went over what  
23 you would be doing and what rules you  
24 should follow?

25 A. They would just say to us, they

1 S. Espinoza

2 would just tell us what kind of work we  
3 were going to do and which tools we would  
4 need and which materials.

5 Q. When you say they, who is they?

6 A. Oh, the co-workers would get  
7 together and have that meeting.

8 Q. Who led the meeting?

9 A. George.

10 Q. Jorge, is his last name Moscoso?

11 A. I don't know. I don't remember.

12 Q. When you attended those  
13 meetings, Did Jorge or anybody else give  
14 you any instructions as to how to use the  
15 ladder?

16 A. I can't remember that he gave me  
17 any instructions along those lines.

18 Q. During any of those meetings,  
19 did anything tell you what safety, what  
20 precautions you should take in using the  
21 ladder?

22 A. No, I can't remember them  
23 telling me anything like that.

24 Q. Did anyone ever instruct you  
25 that you should be wearing a lanyard and



1 S. Espinoza

2 harness while you were up on the ladder?

3 A. In OSHA.

4 Q. They taught you that in OSHA  
5 training that you had?

6 A. Yes.

7 Q. You testified you have an OSHA  
8 card; correct?

9 A. Yes.

10 Q. Did you need that before you  
11 could start work on the job?

12 A. They never asked me for that  
13 card but did I have one.

14 Q. They didn't require that you  
15 have it and prove that you had OSHA  
16 training before working on the job?

17 A. I showed them the card but they  
18 never asked for anything to verify it.

19 Q. Did you have your own equipment?

20 A. Some small things, yes.

21 Q. What did you have?

22 A. Hammer, a lanyard, a measuring  
23 tape, something to cut the sheetrock, a  
24 drill to put in the screws.

25 Q. Did you have your own harness?

1 S. Espinoza

2 A. No, I didn't have a harness.

3 Q. Did they keep harnesses at the  
4 job site?

5 A. I can't remember them giving me  
6 that.

7 Q. You testified that Jim  
8 Associates gave you goggles and a hardhat;  
9 correct?

10 A. Yes, they gave that to me.

11 Q. How did they give that to you?  
12 Did they give that to you back at the  
13 office or did they give it to you when you  
14 arrived at the job?

15 A. They had them in the van.

16 Q. You don't recall when they had  
17 harnesses in the van?

18 A. I don't remember that very well.

19 Q. Where was the ladder that was  
20 involved in this accident, where was the  
21 kept?

22 A. In the van sometimes or at the  
23 work site.

24 Q. Where was it usually kept?

25 A. They would bring it in the van

1 S. Espinoza

2 usually.

3 Q. It would usually be kept in the  
4 office and transported in the van to the  
5 work site?

6 A. Sometimes.

7 Q. You are saying sometimes but I  
8 am asking you usually where was it kept?

9 MR. KLEIN: Over objection, you  
10 can answer.

11 A. Most of the time it was kept in  
12 the van. Every once in a while it stayed  
13 at the work site.

14 Q. Was that the first day you used  
15 this particular ladder?

16 A. We always use that ladder.

17 Q. Before you and other employees  
18 used this ladder on this job site, did  
19 anyone inspect it to see whether it was  
20 okay?

21 A. I don't remember that.

22 Q. You testified that you were on  
23 the ladder and the ladder fell over and  
24 you with it; is that right?

25 A. Yes.

1 S. Espinoza

2 Q. What exactly caused the ladder  
3 to fall over?

4 A. I don't know.

5 Q. Do you know what happened to the  
6 ladder after the accident?

7 A. I have no idea.

8 Q. The day of the accident was your  
9 last day on the job; right?

10 A. Yes, that is the last time I  
11 worked there.

12 MR. BRIGANTIC: What was the  
13 answer?

14 THE INTERPRETER: Yes, that is  
15 the last time I worked there.

16 Q. Just because it was unclear to  
17 me, was the ladder inside the closet or  
18 outside the closet?

19 A. Outside the closet.

20 Q. Prior to this job, you had  
21 worked on construction sites before?

22 A. Yes.

23 Q. Do you know what a foreman is?

24 A. Yes.

25 Q. Who was the foreman on this job?

1 S. Espinoza

2 A. George.

3 Q. At the time you fell, were you  
4 going up the ladder or down the ladder?

5 A. I was coming down.

6 Q. You testified that after you  
7 fell, the workers came around you; is that  
8 correct.

9 A. Yes, they came to see what  
10 happened.

11 Q. You don't know or recall the  
12 names of any of those workers?

13 A. Right now I don't remember.

14 Q. I am going to show you what was  
15 previously marked as Defendants' Exhibit

16 A.

17 Do you see the picture I am  
18 showing you?

19 A. Yes, I see it.

20 Q. Is that you in the picture on  
21 the ground?

22 A. Yes, that is me.

23 Q. Who took this picture?

24 A. I don't know who took it.

25 Q. Was this after you fell?

1 S. Espinoza

2 A. Yes.

3 Q. You testified that you fell on  
4 the ladder and on the concrete; right?

5 A. First the ladder fell and then I  
6 fell and landed a little bit on the ladder  
7 and a little bit on the cement.

8 Q. After you fell the ladder was on  
9 the ground with you?

10 A. Yes.

11 Q. In this picture the ladder is  
12 leaning up against the wall.

13 Who moved the ladder and put it  
14 up against the wall?

15 A. The person that is standing  
16 there on the side. They moved me on the  
17 floor and they moved the ladder right  
18 after the accident.

19 Q. Who was that person? What is  
20 their name, if you remember?

21 A. I don't remember exactly.

22 Q. Did he also work for Jim  
23 Associates?

24 A. Yes.

25 Q. The person who took this

1 S. Espinoza

2 picture, was that person also an employee  
3 of Jim Associates?

4 A. I don't know who it was that  
5 took the photograph.

6 Q. What did the person look like?

7 A. Right at that moment, I was very  
8 frightened because of the pain and because  
9 of the fall and so I can't remember having  
10 seen him.

11 Q. How long after the accident  
12 occurred was this photograph taken?

13 A. I couldn't say.

14 Q. After the accident happened and  
15 before this photograph was taken, did you  
16 get up?

17 A. No.

18 Q. When you landed what position  
19 did you land in on the ground?

20 A. With the person who is standing  
21 there, a little bit in front of the person  
22 that is standing there, where the radiator  
23 is.

24 Q. I don't see a radiator in this  
25 picture.

1 S. Espinoza

2 Can you tell me where it would  
3 be?

4 A. I was over more towards the  
5 right where you see that red object there.  
6 I was more over on that side.

7 Q. This picture is not where you  
8 actually landed after the accident?

9 A. No, it's not the exact place.

10 Q. Did you ask somebody to take  
11 this picture?

12 A. I asked everybody to but I don't  
13 know who it was that actually took that  
14 photograph.

15 Q. You asked that somebody take  
16 this photograph?

17 A. Yes.

18 Q. Why did you do that?

19 A. Because I was hurt and they  
20 wanted to take me outside onto the street.

21 Q. Why would that require a  
22 photograph though?

23 A. For evidence that I had been  
24 there.

25 Q. You testified that nobody wanted



1 S. Espinoza

2 to call 911 initially. Why was that?

3 MR. KLEIN: Over my objection.

4 You can answer.

5 A. I don't know.

6 Q. The other employees moved you  
7 before 911 was called?

8 A. Yes.

9 Q. Where did they move you to?

10 A. From the place you see there,  
11 they wanted to get me out of there but I  
12 told them please not to touch me.

13 Q. When they got you out of there,  
14 where did they put you before the  
15 ambulance came?

16 A. They carried me a little bit  
17 further out from where you see me there so  
18 that I wasn't so far inside.

19 Q. Did you already have back pain  
20 when they started moving you?

21 A. Right at that moment, my body  
22 was numb, I couldn't feel much.

23 Q. What I am asking, it's not fully  
24 responsive, did you already have back pain  
25 before they moved you?

1 S. Espinoza

2 MR. KLEIN: Over objection, you  
3 can answer.

4 A. I don't remember very well.

5 Q. Did you already have pain in  
6 your right arm and wrist before they moved  
7 you.

8 A. Yes, yes.

9 Q. How did they actually move you?

10 A. I had fallen over on my right  
11 side and they pulled me over until I was  
12 in this position.

13 Q. Did they lift or drag you along  
14 the ground?

15 A. They dragged me.

16 Q. How many guys did that?

17 A. I don't remember very well if it  
18 was one or two, I don't remember.

19 Q. Do you recall where they grabbed  
20 you to pull you?

21 A. Around my head and my shoulders.

22 Q. After they moved you, do you  
23 recall how long it took for the ambulance  
24 to get there?

25 A. It might have been approximately

1 S. Espinoza

2 from ten minutes to a half hour, something  
3 like that.

4 Q. Besides this particular  
5 photograph, did people take other  
6 photographs?

7 A. I don't remember very well.

8 Q. Did you eventually get a copy of  
9 this photograph?

10 A. Yes.

11 Q. Did someone text you this  
12 photograph?

13 A. Somebody took my phone and took  
14 this photograph with my phone.

15 Q. Is this photograph still on your  
16 phone?

17 A. Yes, I have it. I held onto it.

18 MR. BRIGANTIC: I would ask that  
19 you not delete it until this case is  
20 over.

21 A. Yeah, I have it. I kept it.

22 Q. On your phone do you have other  
23 photographs of you after the accident?

24 A. You mean inside there or outside  
25 or where?

1 S. Espinoza

2 Q. Do you have any photographs  
3 relevant to this accident on your phone  
4 besides this one?

5 A. Yes, I have of my injuries after  
6 I was operated on.

7 MR. BRIGANTIC: I don't believe  
8 I have those photographs but I'll ask  
9 for them.

10 Q. Do you have other photographs on  
11 your phone of the job site after the  
12 accident?

13 A. I would have to look through  
14 them. I don't really remember if I have  
15 them or not.

16 MR. BRIGANTIC: I would ask you,  
17 and I am sure your lawyer will be okay  
18 with this, do not delete any  
19 photographs you took regarding the job  
20 site or your injuries or how you fell  
21 or anything else, okay, because we are  
22 going to request those.

23 Also keep the phone. Do not  
24 replace the phone while this action is  
25 pending and if you have to, you have

1 S. Espinoza

2 to keep the phone and give it to your  
3 lawyer.

4 Q. Who was your cell phone carrier  
5 at the time you took this photograph?

6 A. T-Mobile.

7 Q. Are they still your carrier?

8 A. Yes, the same one that I have  
9 always had.

10 Q. When you took the classes for  
11 OSHA certification, did you learn anything  
12 about what needs to be done if there is a  
13 workplace accident?

14 A. Yes, I did.

15 Q. Did that include telephoning the  
16 local OSHA office that there had been an  
17 accident?

18 A. I don't remember that very well.

19 Q. Do you know whether anyone  
20 called OSHA right after this accident  
21 occurred on the same day?

22 A. No, I have no idea about that.

23 Q. Did Jorge make it back to the  
24 job site before you left in the ambulance?

25 A. I don't remember very well.

1 S. Espinoza

2 Q. In preparation for your  
3 deposition here today, did you review any  
4 documents?

5 A. No.

6 Q. I believe you testified that  
7 it's difficult for you to write with your  
8 right hand.

9 Can you tell me specifically why  
10 that is the case.

11 A. After I have been writing for  
12 five to ten minutes, my hand starts to  
13 hurt, especially my wrist.

14 Q. What happens, do you stop  
15 writing then?

16 A. I have to rest my hand before I  
17 can continue writing.

18 Q. How long do you rest before you  
19 start writing again?

20 A. Until the pain goes away.

21 Q. When you were being treated for  
22 your fractures, did the doctor ever tell  
23 you, you should stop smoking immediately  
24 because it would affect how the fractures  
25 healed?

1 S. Espinoza

2 A. No, they didn't say that to me.

3 Q. If it's in your medical records,  
4 you don't think they told you that?

5 A. I stopped smoking for a long  
6 time.

7 Q. I understood your testimony that  
8 you smoke a pack every two days currently.

9 THE INTERPRETER: I think didn't  
10 he finish answering.

11 MR. BRIGANTIC: I'm sorry. Go  
12 ahead.

13 A. When the accident happened, I  
14 had stopped smoking for a while.

15 Q. You resumed smoking?

16 A. Lately yes.

17 Q. When is lately?

18 A. It helps me to relax.

19 Q. I asked when did you start  
20 again.

21 A. After the surgeries.

22 Q. When you fell did you lose  
23 consciousness?

24 A. No.

25 Q. Since you fell have you had any

1 S. Espinoza

2 issues with memory?

3 A. You mean after the accident?

4 Q. Yes.

5 A. I have had panic attacks  
6 sometimes.

7 MR. BRIGANTIC: I'm sorry, what  
8 was that?

9 THE INTERPRETER: Panic attacks.

10 Q. I'll ask about that.

11 What I was asking now is since  
12 the accident, have you had issues with  
13 memory?

14 A. Just a little bit. Sometimes  
15 it's hard for me to remember things.

16 Q. Have you talked to any doctor  
17 about that?

18 A. No.

19 Q. Have you sought any medical  
20 treatment for the panic attacks?

21 A. To a psychologist.

22 Q. Are you seeing a psychologist  
23 presently?

24 A. No, I had like six sessions.

25 Q. That was after the accident?



1 S. Espinoza

2 A. Yes.

3 Q. Was it a psychologist or  
4 psychiatrist?

5 A. Psychologist.

6 Q. Was part of the reason due to  
7 the embarrassment that you felt over your  
8 facial injuries?

9 A. Yes, a little bit.

10 Q. What is the name of the  
11 psychologist?

12 A. I don't know their names.

13 Q. Do you have a business card from  
14 the psychologist?

15 A. No.

16 Q. Do you have the psychologist's  
17 telephone number in your contacts on your  
18 phone?

19 A. Not currently.

20 Q. Did you delete it?

21 A. When my phone starts going  
22 really slowly, then I clean it up.

23 Q. I appreciate that.

24 Did you delete from your  
25 contacts the information regarding your

1 S. Espinoza

2 psychologist?

3 A. I never kept the psychologists'  
4 numbers because they would always call me.

5 Q. Do you have on your phone  
6 contact information for your other  
7 doctors?

8 A. The doctors from the 159th.

9 Q. After the accident did you  
10 experience some problems with your hearing  
11 in your right ear?

12 A. Yes.

13 Q. Did you have a hearing test?

14 A. Yes.

15 Q. Do you recall who gave you the  
16 hearing test?

17 A. I don't remember.

18 Q. Do you know when they gave you  
19 the hearing test?

20 A. No, I don't remember.

21 Q. Do you remember how many hearing  
22 tests you had?

23 A. They just asked examined me but  
24 they didn't do anything more than that.

25 Q. Then I have to ask you, did you

1 S. Espinoza

2 get a hearing test after this accident  
3 where you had to go into a booth with  
4 headphones and they gave little cones and  
5 asked you whether you could hear them?

6 A. No. They didn't do that ever.

7 Q. Did they ever do a test to  
8 document how much hearing loss you had?

9 A. No, I didn't get myself checked.  
10 They just cleaned out my ear.

11 Q. The pain that you have in your  
12 head, do you still have that?

13 A. Yes, sometimes I can't bear the  
14 pain.

15 Q. Have you talked to any doctor  
16 about that pain in your head?

17 A. No.

18 Q. Your Workers' Compensation case,  
19 that is still active and open; correct?

20 A. Yes.

21 Q. Do you have any future hearings  
22 scheduled?

23 A. They haven't called me.

24 Q. That is not my question.

25 Do you know whether there are

1 S. Espinoza

2 any future hearings scheduled?

3 A. Up until now I really don't know  
4 anything about that. They haven't told me  
5 anything.

6 Q. You did not apply for Social  
7 Security Disability benefits; correct?

8 A. No, I didn't apply.

9 Q. Did you apply for SSI?

10 A. I don't know what that means.

11 Q. Supplement Security Income with  
12 Social Security?

13 A. No, I haven't applied for any of  
14 that.

15 Q. Have you applied for Medicaid?

16 A. No.

17 Q. Following the accident did you  
18 apply for unemployment?

19 A. No.

20 Q. Have you applied for SNAP  
21 benefits?

22 A. No.

23 Q. Do you presently have a primary  
24 care physician?

25 A. No, I haven't been to any

1 S. Espinoza

2 doctor. It's been a really long time,  
3 very long time.

4 Q. Are you presently taking driving  
5 classes?

6 A. Yes, I have four. I will have  
7 had four classes already.

8 Q. You go out to a driving school  
9 and take lessons?

10 A. Yes.

11 Q. You are able to use your right  
12 foot to drive?

13 A. Yes.

14 Q. With respect to restoring cars,  
15 whether or not you have been paid for it,  
16 have you restored any cars since this  
17 accident?

18 A. No.

19 Q. When you testified about having  
20 a business where you would buy cars at  
21 auctions, fix them up, and sell them, you  
22 would personally do the work fixing them  
23 up?

24 A. No, I would buy them and take  
25 them to a shop.

1 S. Espinoza

2 Q. You, yourself, wouldn't do any  
3 of the detailing or the restoration work  
4 or any of that?

5 A. No, I wouldn't do any of that.  
6 I would just buy it and someone else would  
7 do that part.

8 Q. How would the dealer get  
9 compensated at the time of sale?

10 When the vehicle was eventually  
11 sold, the dealer would get part of the  
12 profit and you would get part of the  
13 profit?

14 A. No, it didn't work like that.

15 Q. Tell me how you anticipated that  
16 it would work.

17 A. By analyzing the market, market  
18 analysis.

19 Q. I understand that but who would  
20 do that and how would you make the money?

21 A. You buy them at a low cost, you  
22 get the car, and you would send the car to  
23 a shop where they would fix it up. You  
24 would then pay the dealer a commission and  
25 then you put it up on the market. The

1 S. Espinoza

2 price you are selling it at is much  
3 greater than the price you bought it at.

4 Q. When you applied for the loan  
5 with Citibank, which Citibank location did  
6 you submit the application to?

7 A. The one close to my house.

8 Q. Can you tell me either the  
9 streets it's located on or the address?

10 A. I don't know the street but it's  
11 five minutes away from my home.

12 Q. That is the home that you are  
13 living in now?

14 A. Yes.

15 Q. After the first day of your  
16 deposition in November, you moved; is that  
17 right?

18 A. Yes, in January.

19 Q. Why did you move?

20 A. Because the apartment got rented  
21 to other people.

22 Q. The car dealer you were in touch  
23 with regarding the business, what is the  
24 name of the dealer?

25 A. It's a dealer in Colorado.

1 S. Espinoza

2 Q. What is the name of the dealer?

3 A. Just a moment.

4 MR. KLEIN: Just from your  
5 memory.

6 A. Entrepreneurs, I can't remember  
7 the name very well.

8 Q. Do you still have the paper that  
9 was submitted to Citibank for the loan?

10 A. I did an application on-line.

11 Q. Did you keep a printout of it or  
12 did you save it on your computer?

13 A. They did it on their computer.

14 Q. That is not my question. I know  
15 when I submit things on my computer,  
16 sometimes I download them and save them as  
17 PDFs.

18 Did you save a copy of what you  
19 submitted to Citibank?

20 A. They were going to send me a  
21 copy to my home but the copy hasn't  
22 arrived yet. First I applied for \$10,000.  
23 They said no for that and I applied for  
24 five and they said no to that too.

25 Q. I appreciate your answer but I



1 S. Espinoza

2 am not asking you what Citibank did, I am  
3 asking you did you save a copy of what you  
4 submitted to Citibank?

5 A. No, I didn't receive any copy at  
6 that.

7 Q. What I am asking you is did you  
8 save a copy of what you submitted to  
9 Citibank?

10 A. No, haven't kept any copy.

11 Q. Since the accident occurred,  
12 have you done any gardening or roofing  
13 work?

14 A. I haven't worked at anything.

15 Q. Have you ever heard the name  
16 David Kleeman?

17 A. I don't remember having heard  
18 that.

19 Q. Have you ever heard the name  
20 Vanessa Kleeman?

21 A. I don't remember that.

22 Q. When you were working for Jim  
23 Associates, did you deal at all with a  
24 person by the name of Karita

25 A. No, I don't remember that.

1 S. Espinoza

2 Q. Do you know a Freddie Perez at  
3 Jim Associates?

4 A. I don't know the names of any of  
5 the people there.

6 Q. That is okay, Mr. Reyes. These  
7 are people who have some connection but  
8 that doesn't necessarily mean you should  
9 know about them.

10 A. I understand.

11 Q. Prior to your back surgery, did  
12 you have epidural shots in your lower  
13 back?

14 A. Yes, I did have injections in my  
15 spinal column.

16 Q. This is before the back surgery;  
17 correct?

18 A. Yes.

19 Q. Do you recall approximately how  
20 many of those you had?

21 A. Four before the operation.

22 Q. Did they do anything for you?

23 A. Not a lot.

24 Q. When you were going to your  
25 appointments for your back and your arm

1 S. Espinoza

2 and your head, was anyone accompanying you  
3 to those appointments?

4 A. No, I would go alone.

5 Q. Have you ever heard the name  
6 Duane Hudson?

7 A. No, I haven't heard that name.

8 Q. The first job that you had when  
9 you came to the United States, you  
10 testified that you were verbally abused at  
11 that job; is that right?

12 A. Yes.

13 Q. Can you tell me what you mean by  
14 that?

15 [Continued on the next page to  
16 allow for signature line and jurat.]

17

18

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1 S. Espinoza

2 A. He treated people very badly.

3 He would swear a lot at them.

4 MR. BRIGANTIC: Thank you.

5 I have no further questions.

6 [TIME NOTED: 3:56 p.m.]

7

8

9 -----  
STALIN RODRIGO REYES ESPINOZA

10

11

12

13

14 Subscribed and sworn to before me

15

this \_\_ day of \_\_\_\_\_, 2022.

16

17

-----  
Notary public

18

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25

I N D E X

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CERTIFICATION

I, Carol Ellinghaus, a Notary Public  
for and within the State of New York, do  
hereby certify:

That the witness whose testimony as  
herein set forth, was duly sworn by me;  
and that the within transcript is a true  
record of the testimony given by said  
witness.

I further certify that I am not  
related to any of the parties to this  
action by blood or marriage, and that I am  
in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 28th day of March, 2022.



CAROL ELLINGHAUS

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ERRATA SHEET  
VERITEXT LEGAL SOLUTIONS

CASE NAME: ESPINOZA V. DAVS  
DATE OF DEPOSITION: 3/24/22  
WITNESS' NAME: STALIN ESPINOZA

[illegible]

STALIN ESPINOZA

SUBSCRIBED AND SWORN TO  
BEFORE ME THIS \_\_\_\_\_ DAY  
OF \_\_\_\_\_, 2022.

NOTARY PUBLIC

MY COMMISSION EXPIRES \_\_\_\_\_



[& - anymore]

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New York Code  
Civil Practice Law and Rules  
Article 31 Disclosure, Section 3116

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